

Contacts and Temporary Detentions

421.1 PURPOSE AND SCOPE

Best Practice **MODIFIED**

The purpose of this policy is to establish guidelines for temporarily detaining but not arresting persons in the field, conducting field interviews (FI) and pat-down searches, and the taking and disposition of photographs.

421.1.1 DEFINITIONS

Federal

Definitions related to this policy include:

Consensual encounter - When an officer contacts an individual but does not create a detention through words, actions, or other means. In other words, a reasonable individual would believe that his/her contact with the officer is voluntary.

Field interview - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purpose of determining the individual's identity and resolving the officer's suspicions.

Field photographs - Posed photographs taken of a person during a contact, temporary detention, or arrest in the field. Undercover surveillance photographs of an individual and recordings captured by the normal operation of a ~~Mobile Audio Video (MAV) system~~, body-worn camera, or public safety camera when persons are not posed for the purpose of photographing are not considered field photographs.

Pat-down search - A type of search used by officers in the field to check an individual for dangerous weapons. It involves a thorough patting-down of clothing to locate any weapons or dangerous items that could pose a danger to the officer, the detainee, or others.

Reasonable suspicion - When, under the totality of the circumstances, an officer has articulable facts that criminal activity may be afoot and a particular person is connected with that possible criminal activity.

Temporary detention - When an officer intentionally, through words, actions, or physical force, causes an individual to reasonably believe he/she is required to restrict his/her movement without an actual arrest. Temporary detentions also occur when an officer actually restrains a person's freedom of movement.

421.2 POLICY

Federal

The Berkeley Police Department respects the right of the public to be free from unreasonable searches or seizures. Due to an unlimited variety of situations confronting the officer, the decision to temporarily detain a person and complete a field interview (FI), pat-down search, or field photograph **shall** be left to the officer based on the totality of the circumstances, officer safety considerations, and constitutional safeguards.

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421.3 FIELD INTERVIEWS

Federal

Based on observance of suspicious circumstances or upon information from investigation, an officer may initiate the stop of a person, and conduct an FI, when there is articulable, reasonable suspicion to do so. A person, however, **shall** not be detained longer than is reasonably necessary to resolve the officer's suspicion.

Nothing in this policy is intended to discourage consensual contacts. Frequent casual contact with consenting individuals is encouraged by the Berkeley Police Department to strengthen community involvement, community awareness, and problem identification.

421.3.1 INITIATING A FIELD INTERVIEW

Federal

When initiating the stop, the officer **should** be able to point to specific facts which, when considered with the totality of the circumstances, reasonably warrant the stop. Such facts include but are not limited to an individual's:

- (a) Appearance or demeanor suggesting that he/she is part of a criminal enterprise or is engaged in a criminal act
- (b) Actions suggesting that he/she is engaged in a criminal activity
- (c) Presence in an area at an inappropriate hour of the day or night
- (d) Presence in a particular area is suspicious
- (e) Carrying of suspicious objects or items
- (f) Excessive clothes for the climate or clothes bulging in a manner that suggest he/she is carrying a dangerous weapon
- (g) Location in proximate time and place to an alleged crime
- (h) Physical description or clothing worn that matches a suspect in a recent crime
- (i) Prior criminal record or involvement in criminal activity as known by the officer

421.4 PAT-DOWN SEARCHES

Federal **MODIFIED**

Once a valid stop has been made, and consistent with the officer's training and experience, an officer may pat a suspect's outer clothing for weapons if the officer has a reasonable, articulable suspicion the suspect may pose a safety risk. The purpose of this limited search is not to discover evidence of a crime, but to allow the officer to pursue the investigation without fear of violence. Circumstances that may establish justification for performing a pat-down search include but are not limited to:

- (a) The type of crime suspected, particularly in crimes of violence where the use or threat of deadly weapons is involved.
- (b) Where more than one suspect must be handled by a single officer.

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- (c) The hour of the day and the location or neighborhood where the stop takes place.
- (d) Prior knowledge of the suspect's use of force and/or propensity to carry weapons.
- (e) The actions and demeanor of the suspect.
- (f) Visual indications which suggest that the suspect is carrying a firearm or other weapon.

Whenever practicable, a pat-down search **should** not be conducted by a lone officer. A cover officer **should** be positioned to ensure safety and **should** not be involved in the search.

421.5 FIELD PHOTOGRAPHS

Best Practice **MODIFIED**

All available databases **should** be searched before photographing any field detainee. If a photograph is not located, or if an existing photograph no longer resembles the detainee, the officer **shall** carefully consider, among other things, the factors listed below.

421.5.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT

Best Practice

Field photographs may be taken when the subject being photographed knowingly and voluntarily gives consent. ~~When taking a consensual photograph, the officer **should** have the individual read and sign the appropriate form accompanying the photograph.~~

421.5.2 FIELD PHOTOGRAPHS TAKEN WITHOUT CONSENT

Federal

Field photographs may be taken without consent only if they are taken during a detention that is based upon reasonable suspicion of criminal activity, and the photograph serves a legitimate law enforcement purpose related to the detention. The officer must be able to articulate facts that reasonably indicate that the subject was involved in or was about to become involved in criminal conduct. ~~The subject **should** not be ordered to remove or lift any clothing for the purpose of taking a photograph.~~

If, prior to taking a photograph, the officer's reasonable suspicion of criminal activity has been dispelled, the detention must cease and the photograph **should** not be taken.

All field photographs and related reports **shall** be submitted to a supervisor and retained in compliance with this policy.

421.5.3 SUPERVISOR RESPONSIBILITIES

Best Practice

While it is recognized that field photographs often become valuable investigative tools, supervisors **should** monitor such practices in view of the above listed considerations. This is not to imply that supervisor approval is required before each photograph is taken.

Access to, and use of, field photographs **shall** be strictly limited to law enforcement purposes.

421.6 WITNESS IDENTIFICATION AND INTERVIEWS

Best Practice

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Because potential witnesses to an incident may become unavailable or the integrity of their statements compromised with the passage of time, officers **should**, when warranted by the seriousness of the case, take reasonable steps to promptly coordinate with an on-scene supervisor and/or criminal investigator to utilize available members for the following:

- (a) Identifying all persons present at the scene and in the immediate area.
 1. When feasible, a recorded statement **should** be obtained from those who claim not to have witnessed the incident but who were present at the time it occurred.
 2. Any potential witness who is unwilling or unable to remain available for a formal interview **should** not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers **should** attempt to identify the witness prior to his/her departure.
- (b) Witnesses who are willing to provide a formal interview **should** be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by Berkeley Police Department members.
 1. A written, verbal, or recorded statement of consent **should** be obtained prior to transporting a witness. When the witness is a minor, consent **should** be obtained from the parent or guardian, if available, prior to transport.

421.7 DISPOSITION OF PHOTOGRAPHS

Agency Content

All detainee photographs must be assigned an incident or case number and uploaded to the BPD evidence database or booked into the property room.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: November 1, 1999

GENERAL ORDER R-29

SUBJECT: FIELD INTERVIEWS

PURPOSE

- 1 - The purpose of this General Order is to establish policy and procedures for conducting field interviews and maintaining records of those citizen contacts.

POLICY

- 2 - Field interviews **should** be used only in the pursuit of legitimate goals of the Department and not to harass any individual. Field interviews are a productive tool and source of information for the Department. When used properly, they can discourage criminal activity, identify suspects, and add useful information to Department files.

PROCEDURES

- 3 - The Field Interview Card (referred to in this order as "Form") **shall** be used to record information where persons are stopped and interviewed in the field and where no numbered report is made. Field Interview Cards **should** be completed under the following circumstances:
 - (a) The person contacted is a named suspect in a reported crime, but additional information, such as current address or photograph for a lineup, is needed to complete an ongoing investigation.
 - (b) The person contacted is a possible suspect in a crime, or his/her physical description matches the suspect in a specific crime. A photograph may be taken for identification or elimination purposes.
 - (c) The person committed a minor infraction in the officer's presence and was warned; the Field Interview Card was completed in lieu of arrest.
 - (d) The subject was engaged in suspicious activity which caused the officer's attention to be focused upon him/her. Examples of such activity would include loitering around a closed business or known drug spot without apparent business, erratic driving, attempting to hide from the officer, etc.
- 4 - A supply of the forms will be maintained in the Squad Room with additional forms available in Support Services Division.*
- 5 - The originating officer **shall** legibly print the required information on the form at the time contact is made. The officer **shall** be responsible for determining whether or not there are any outstanding warrants or "wants" on the subject.
 - (a) The officer **should** also search the criminal files to determine whether the subject has a criminal record.

* Highlighted text is new

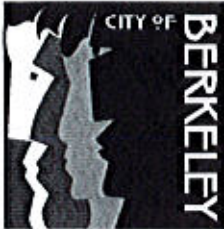
BERKELEY POLICE DEPARTMENT

DATE ISSUED: November 1, 1999

GENERAL ORDER R-29

- (1) If a record is located, the officer **should** indicate by a check mark in the appropriate box at the bottom of the form whether it is a felony or misdemeanor.
 - (2) If the subject has a CORPUS personal file number, the number **should** be written on the lower portion of the form.
 - (3) If there is no record, the word "No" **should** be written in each box.
- (b) The FI form **should** be fully completed before being turned in.
- 6 - The officer **should** promptly place the completed form into the "Stop Card Tray*" located in the Squad Room.
- (a) It **shall** be the responsibility of the Detective **Bureau Secretary*** to remove the completed forms from the tray* and process them properly.
 - (b) The **Detective Bureau Secretary*** will be responsible for entering the forms into the Records Management System.
 - (c) By agreement with the Police Review Commission, Field Interview Cards are purged from the Records Management System after 90 days.
- 7 - In those instances where the officer feels that the person stopped would be of interest to a particular Detective **Bureau*** detail, e.g., Sex, Robbery, etc., the officer **shall** photocopy the form and route the copy to the particular detail.
- (a) Appropriate information **shall** be included in the section titled, "Circumstances of Stop," as well as the notation that a copy has been sent to the concerned detail, e.g., "cc: Sex Detail."
 - (b) The original of the form **shall** be handled as outlined in paragraph 6, above.

Reference: CALEA Standards



Police Review Commission

October 4, 2019

To: Lexipol Subcommittee Members
From: Katherine J. Lee, ^{VJL} Police Review Commission Officer
Re: Questions from Commission about policies returned to Subcommittee

Here are the questions Commissioners had at their September 18, 2019 about the policies they decided to return to you:

301 Use of Force Review Board

301.3 and 301.4 – What is the definition of “very serious injury”? Is it defined elsewhere? Synonymous with “great bodily injury”?

301.4.1 – Why “should” and not “shall”?

301.4.2 – The deleted language bottom of p. 2 to top of p. 3 – why deleted?

301.6 – The sentence is missing a word or words at the end.

343 Gun Violence Restraining Orders

343.5 – Why officer “should” and not “shall” consider whether to seek a search warrant?

343.5 – “refuses to surrender any firearm” etc. is vague. Maybe “refuses to surrender any firearm or ammunition in his/her possession” or “under his/her custody or control.” If officer goes to home and sees weapons, is search warrant necessary? [Note: unsure if I understood all concerns being raised. Comm. Leftwich said there has been some difficulty implementing this statewide.]

344 Off-Duty Law Enforcement Actions

344.4, 2nd para. –

“Officers should refrain from carrying firearms when the consumption of alcohol is likely . . .” Unclear whether it means when officer walks into a room where others or going to drink, e.g., a bar; or when the officer is likely to consume.

. . . any officer who has consumer “an amount” of alcohol or “taken any drugs” – should it say “any” amount of alcohol?

"that would tend to" adversely affect officer's senses – not a bright line and seems discretionary; is that the intent?

344.4.1, 2nd para. – Would like clarification on how long officer needs to keep repeatedly identifying self until acknowledged; what if everyone has head under the table?

351 Second Response

General question about the process, especially the Exhibit B posting.

cc: Lt. Rico Rolleri
Sgt. Sam Speelman

329.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of this department in determining when, how and to whom notification of major incidents should be made.

329.2 POLICY

The Berkeley Police Department recognizes that certain incidents should be brought to the attention of supervisors or other specified personnel of this department to facilitate the coordination of activities and ensure that inquiries from the media and the public may be properly addressed.

329.3 MINIMUM CRITERIA FOR NOTIFICATION

Most situations where the media show a strong interest are also of interest to the Chief of Police and the affected Division **Commander/Captain**. The following list of incident types is provided as a guide for notification and is not intended to be all inclusive.

- Homicides
- Traffic accidents with fatalities
- Officer-involved shooting - on or off duty (see Officer-Involved Shootings and Deaths Policy for special notifications)
- Significant injury or death to employee - on or off duty
- Death of a prominent Berkeley official
- Arrest or investigation of a city employee department employee or prominent Berkeley official
- Aircraft crash with major damage and/or injury or death
- In-custody deaths

329.4 WATCH COMMANDER RESPONSIBILITY

The Watch Commander is responsible for making the appropriate notifications. The Watch Commander shall make reasonable attempts to obtain as much information on the incident as possible before notification. The Watch Commander shall attempt to make the notifications as soon as practicable. Notification should be made by calling the home telephone number first and then by any other available contact numbers.

329.4.1 STAFF NOTIFICATION

In the event an incident occurs described in the Major Incident Notification Policy, the Chief of Police shall be notified along with the affected Division **Commander/Captain** and the Detective Lieutenant if that division is affected.

329.4.2 DETECTIVE NOTIFICATION

If the incident requires that a detective respond from home, the immediate supervisor of the

appropriate detail shall be contacted who will then contact the appropriate detective.

329.4.3 TRAFFIC BUREAU NOTIFICATION

In the event of a traffic fatality or major injury, the Traffic Sergeant shall be notified who will then contact the appropriate accident investigator. The Traffic Sergeant will notify the Traffic Lieutenant.

329.4.4 PUBLIC INFORMATION OFFICER (PIO)

The Public Information Officer shall be called after members of staff have been notified that it appears the media may have a significant interest in the incident.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: August 31, 2005

GENERAL ORDER A-49

SUBJECT: IMPROPER CONDUCT OR ARREST OF CITY EMPLOYEES

PURPOSE

- 1 - The purpose of this Order is to define the proper procedure to follow in the event a City employee becomes the subject of an arrest or investigation alleging improper conduct.

POLICY

- 2 - When a City of Berkeley employee is arrested, the arresting officer shall forward a copy of the report to the Support Services Division Captain.

PROCEDURES

- 3 - The report shall be clearly marked "CITY EMPLOYEE" in capital letters across the top of the first page.
- 4 - This Order shall apply to criminal cases, as well as reports of improper conduct, whether or not an arrest is made.
- 5 - The Captain of Support Services Division shall notify the Chief of Police and forward a copy of the report to the Office of the Chief as soon as possible. The Chief of Police will determine if it is necessary to contact the City Manager and forward a copy of the report to the City Manager. Should a Department Head be the subject of the report, the City Manager shall be notified as soon as possible.

Highlighted text is new.

Volunteer Program

341.1 PURPOSE AND SCOPE

It is the policy of this department to use qualified volunteers for specified tasks and duties in order to create efficiencies for the Department and improve services to the community. Volunteers are intended to supplement and support, rather than supplant, sworn officers and civilian personnel. Volunteers can be an important part of any organization and are proven to be a valuable asset to law enforcement agencies. Volunteers help to increase departmental responsiveness, delivery of services and information input, and provide new program opportunities. In addition, volunteers bring new skills and expertise to the Department and prompt new enthusiasm.

341.1.1 DEFINITION OF VOLUNTEER

An individual who performs a service for the Department without promise, expectation or receipt of compensation for services rendered. This may include unpaid chaplains, ~~unpaid reserve officers~~, interns, persons providing administrative support and youth involved in a law enforcement ~~education programs~~ Explorer Post, among others.

341.2 VOLUNTEER MANAGEMENT

341.2.1 VOLUNTEER COORDINATOR

The Volunteer Coordinator shall be appointed by the Community Services Bureau Lieutenant ~~Support Services Division Commander~~. The function of the Volunteer Coordinator is to provide a central coordinating point for effective volunteer management within the Department, and to direct and assist staff and volunteer efforts to jointly provide more productive services. The Volunteer Coordinator should work with other Department staff on an ongoing basis to assist in the development and implementation of volunteer-staffed positions.

The Volunteer Coordinator, or his/her designee, shall be responsible for the following:

- (a) Recruiting, selecting and training qualified volunteers for various positions.
- (b) Facilitating the implementation of new volunteer activities and assignments.
- (c) Maintaining records for each volunteer.
- (d) Tracking and evaluating the contribution of volunteers.
- ~~(e) Maintaining the volunteer handbook and outlining expectations, policies and responsibilities for all volunteers.~~
- ~~(f)~~ (e) Maintaining a record of volunteer schedules and work hours.
- ~~(g)~~ (f) Completion and dissemination as appropriate of all necessary paperwork and information.

(h)(g) Planning periodic recognition events.

(i)(h) Administering discipline when warranted.

(j)(i) Maintaining liaison with other volunteer-utilizing programs in the community and assisting in community-wide efforts to recognize and promote volunteering.

341.2.2 RECRUITMENT

Volunteers should be recruited on a continuous and ongoing basis consistent with department policy on equal opportunity nondiscriminatory employment. A primary qualification for participation in the application process should be an interest in, and an ability to assist the Department in serving the public.

Requests for volunteers should be submitted in writing by interested staff to the Volunteer Coordinator through the requester's immediate supervisor. A complete position description and a requested time-frame should be included in the request. All parties should understand that the recruitment of volunteers is enhanced by creative and interesting assignments. The Volunteer Coordinator may withhold assignment of any volunteer until such time as the requesting unit is prepared to make effective use of volunteer resources.

341.2.3 SCREENING

All prospective volunteers should complete the volunteer application form. The Volunteer Coordinator or his/her designee should conduct a face-to-face interview with an applicants under consideration.

A documented background investigation shall be completed on each volunteer applicant and shall include, but not necessarily be limited to, the following:

- (a) Traffic and criminal background check. Fingerprints shall be obtained from all applicants and processed through the California Criminal Information Index.
- (b) Employment
- (c) References
- (d) Credit check

A Computer Voice Stress Analysis (CVSA)~~polygraph exam~~ may be required of each applicant depending on the type of assignment.

341.2.4 SELECTION AND PLACEMENT

Service as a volunteer with the Department shall begin with an official notice of acceptance or appointment to a volunteer position. Notice may only be given by an authorized representative of the Department, who will normally be the Volunteer Coordinator. No volunteer should begin any assignment until they have been officially accepted for that position and completed all required screening and paperwork. At the time of final acceptance, each volunteer should complete all required enrollment paperwork and will receive a copy of their position description and agreement of service with the Department. All volunteers shall receive a copy of the volunteer handbook and shall be required to sign a volunteer agreement.

Volunteers should be placed only in assignments or programs that are consistent with their knowledge, skills, abilities and the needs of the Department.

341.2.5 TRAINING

Volunteers will be provided with an orientation program to acquaint them with the Department, personnel, policies and procedures that have a direct impact on their work assignment.

Volunteers should receive position-specific training to ensure they have adequate knowledge and skills to complete tasks required by the position and should receive periodic ongoing training as deemed appropriate by their supervisor or the Volunteer Coordinator.

Training should reinforce to volunteers that they may not intentionally represent themselves as, or by omission infer that they are sworn officers or other full-time members of the Department. They shall always represent themselves as volunteers.

All volunteers shall comply with the rules of conduct and with all orders and directives, either oral or written, issued by the Department.

341.2.6 FITNESS FOR DUTY

No volunteer shall report to work or be on-duty when his/her judgment or physical condition has been impaired by alcohol, medication, other substances, illness or injury.

Volunteers shall report to their supervisor any changes in status that may affect their ability to fulfill their duties. This includes, but is not limited to, the following:

- (a) Driver license
- (b) Medical condition
- (c) Arrests
- (d) Criminal investigations

All volunteers shall adhere to the guidelines set forth by this department regarding drug and alcohol use.

341.2.7 DRESS CODE

As representatives of the Department, volunteers are responsible for presenting a professional image to the community. Volunteers shall dress appropriately for the conditions and performance of their duties.

Volunteers shall conform to department-approved dress consistent with their duty assignment. Uniforms authorized for volunteers should be readily distinguishable from those worn by sworn officers. The uniform or identifiable parts of the uniform shall not be worn while off-duty except volunteers may choose to wear the uniform while in transit to or from official department assignments or functions provided an outer garment is worn over the uniform shirt so as not to bring attention to the volunteer while he/she is off duty.

Volunteers shall be required to return any issued uniform or department property at the termination of service.

341.3 SUPERVISION OF VOLUNTEERS

Each volunteer who is accepted to a position with the Department must have a clearly identified supervisor who is responsible for direct management of that volunteer. This supervisor will be responsible for day-to-day management and guidance of the work of the volunteer and should be available to the volunteer for consultation and assistance.

A volunteer may be assigned as, and act as, a supervisor of other volunteers provided that the supervising volunteer is under the direct supervision of a paid staff member.

Functional supervision of volunteers is the responsibility of the supervisor in charge of the unit where the volunteer is assigned. Following are some considerations to keep in mind while supervising volunteers:

- (a) Take the time to introduce volunteers to employees on all levels.
- (b) Ensure volunteers have work space and necessary office supplies.
- (c) Make sure the work is challenging. Do not hesitate to give them an assignment or task that will tap these valuable resources.

341.4 CONFIDENTIALITY

With appropriate security clearance, volunteers may have access to confidential information such as criminal histories or investigative files. Unless otherwise directed by a supervisor or departmental policy, all information shall be considered confidential. Only that information specifically identified and approved by authorized personnel shall be released. Confidential information shall be given only to persons who have a need and a right to know as determined by departmental policy and supervisory personnel.

Each volunteer will be required to sign a nondisclosure agreement before being given an assignment with the Department. Subsequent unauthorized disclosure of any confidential information, verbally, in writing or by any other means, by the volunteer is grounds for immediate dismissal and possible criminal prosecution.

Volunteers shall not address public gatherings, appear on radio or television, prepare any article for publication, act as correspondents to a newspaper or other periodical, release or divulge any information concerning the activities of the Department, or maintain that they represent the Department in such matters without permission from the proper department personnel.

341.5 PROPERTY AND EQUIPMENT

Volunteers will be issued an identification card that must be worn at all times while on-duty. Any fixed and portable equipment issued by the Department shall be for official and authorized use only. Any property or equipment issued to a volunteer shall remain the property of the Department and shall be returned at the termination of service. Loss of the identification card is to be reported to the on-duty shift supervisor or the Volunteer Coordinator immediately.

341.5.1 VEHICLE USE

Volunteers assigned to duties such as vacation house checks or other assignments that require the use of a vehicle must first complete the following:

- (a) A driving safety briefing and department approved driver safety course.
- (b) Verification that the volunteer possesses a valid California Driver License.
- (c) Verification that the volunteer carries current vehicle insurance.

The Volunteer Coordinator should ensure that all volunteers receive safety briefing updates and license and insurance verification at least once a year.

When operating a Department vehicle, volunteers shall obey all rules of the road, including seat belt requirements. Smoking is prohibited in all Department vehicles.

Volunteers should not operate a marked patrol car (unless there is a prominently placed sign indicating that it is out of service) and are not authorized to operate a Department vehicle Code-3.

341.5.2 RADIO AND MDT USAGE

Volunteers shall successfully complete CLETS and radio procedures training prior to using the police radio or MDT and comply with all related provisions. The Volunteer Coordinator should ensure that radio and CLETS training is provided for volunteers whenever necessary.

341.6 DISCIPLINARY PROCEDURES/TERMINATION

A volunteer may be removed from the volunteer program at the discretion of the Chief of Police or the Volunteer Coordinator. Volunteers shall have no property interests in their continued appointment. However, if a volunteer is removed for alleged misconduct, the volunteer will be afforded an opportunity solely to clear his/her name through a liberty interest hearing which shall be limited to a single appearance before the Chief of Police or authorized designee.

Volunteers may resign from volunteer service with the Department at any time. It is requested that volunteers who intend to resign provide advance notice of their departure and a reason for their decision.

341.6.1 EXIT INTERVIEWS

Exit interviews, where possible, should be conducted with volunteers who are leaving their positions. The interview should ascertain why the volunteer is leaving the position and solicit the volunteer's suggestions on improving the position. When appropriate, the interview should also include a discussion on the possibility of involvement in some other capacity with the Department.

341.7 EVALUATION

An evaluation of the overall volunteer program will be conducted on an annual basis by the Volunteer Coordinator. Regular evaluations should be conducted with volunteers to ensure the best use of human resources available, to ensure personnel problems can be identified and dealt with promptly and fairly, and to ensure optimum satisfaction on the part of volunteers.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: December 15, 1999

GENERAL ORDER V-8

SUBJECT: VOLUNTEER PROGRAM

PURPOSE

- 1 - The purpose of this General Order is to establish the guidelines and procedures for the Berkeley Police Department Volunteer Program.

POLICY

- 2 - The Volunteer Program is designed to provide citizens with an opportunity to assist the Berkeley Police Department. All employees are expected to support this Program to the extent possible.

BACKGROUND

- 3 - The Berkeley Police Department has utilized volunteers for many years in different assignments. The Program provides volunteers with an opportunity to participate and observe actual police activities. An ongoing training program provides volunteers with the necessary background to assist the Police Department.

PROCEDURES

- 4 - The **Volunteer Coordinator*** administers the Volunteer Program, under the guidance of the **Community Services Bureau Sergeant*.**
 - (a) The Chief of Police will be the final authority on all appointments to the Volunteer Program or severance from service.
- 5 - It shall be the responsibility of the **Volunteer Coordinator*** to assist in the overall planning, administration, and supervision of the Volunteer Program.
- 6 - The **Volunteer Coordinator*** will serve as the advisor. He/she shall coordinate all relations between volunteers and regular police Divisions/Bureaus.

ELIGIBILITY FOR VOLUNTEER PROGRAM MEMBERSHIP

- 7 - Volunteer applicants must:
 - (a) Be at least eighteen (18) years of age.
 - (b) Have no serious criminal history.
 - (c) Possess a valid California Driver's License (only for certain assignments).
 - (d) Possess enthusiasm, drive and an interest in making a difference in the community.

*Highlighted text is new.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: December 15, 1999

GENERAL ORDER V-8

APPLICATION FOR VOLUNTEER PROGRAM

- 8 - All persons seeking to become a member* of the Berkeley Police Volunteers Program shall be referred to the Volunteer Coordinator. The applicant will complete the BPD Volunteer Application form (BPD81998) and the BPD Volunteer Agreement and Release from Liability form (BPD81998L). After completion of an Oral Board for each candidate, a background investigation will be completed, including (at minimum) a records check, Department of Motor Vehicles check and a fingerprint check. Upon completion of the above, each candidate will attend the Volunteer Academy, which will run for one night a week for four consecutive weeks.*

UNIFORM AND EQUIPMENT

- 9 - Uniform and equipment for the Volunteer Program includes:
- (a) Appropriate civilian attire to be able to meet the general public and ID Badge*
 - (b) "Polo type" shirt with "V.I.P.S." (Volunteer In Police Service) logo*

FUNCTIONS

- 10 - Some of the functions which volunteers may be assigned to might include, but are not limited to:
- (a) Assisting the Volunteer Coordinator* or others on special projects and on-going programs.
 - (b) Providing assistance to other divisions as needed.
 - (c) Any other tasks that may be deemed appropriate by the Chief of Police.
- 11 - Volunteers for the most part* will not perform duties, which are normally performed by sworn personnel or other full time employees of the Berkeley Police Department. They are here to augment not supplant.*

DISCIPLINARY ACTION

- 12 - All members of the Volunteer Program shall be required to observe and obey the policies, rules, regulations, and procedures as set forth in the Berkeley Police Department General Orders and Regulations binder, as well as directives issued by the Chief of Police, or his/her duly designated representatives. A copy of the Berkeley Police Department General Orders and Regulations binder is maintained in the Volunteer* Office. Disciplinary action may include:

*Highlighted text is new.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: December 15, 1999

GENERAL ORDER V-8

- (a) Verbal reprimand.
- (b) Written reprimand.
- (c) Suspension.
- (d) Dismissal.

SEPARATION FROM SERVICE

- 13 - All persons separated from the Volunteer Program will return all Departmental equipment immediately. Persons may be separated from the Volunteer Program in the following manner:
- (a) Resignation.
 - (b) **Dismissal.***

Reference: CALEA Standards

Service Animals

342.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to ensure the rights of individuals who use service animals to assist with disabilities are protected in accordance with Title II of the Americans with Disabilities Act of 1990 (ADA).

342.1.1 DEFINITIONS

Definitions related to this policy include:

Service animal - A dog that is trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. The work or tasks performed by a service animal must be directly related to the individual's disability (28 CFR 35.104; Health and Safety Code § 113903).

As Service animal also includes a miniature horse if the horse is trained to do work or perform tasks for people with disabilities, provided the horse is housebroken, is under the handler's control, the facility can accommodate the horse's type, size and weight, and the horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility (28 CFR 35.136(i)).

Service Dog in Training: A service dog in training is any dog that is being trained to assist a person with a disability. Other than guide dogs for the blind, there are no state-wide certifications, standards or qualifications for service dogs in training or their trainers. Thus, a service dog trainer may be the disabled owner of the dog or a licensed dog trainer.

342.2 POLICY

It is the policy of the Berkeley Police Department to provide services and access to persons with service animals in the same manner as those without service animals. Department members shall protect the rights of persons assisted by service animals in accordance with state and federal law.

342.3 IDENTIFICATION AND USE OF SERVICE ANIMALS

Some service animals may be readily identifiable. However, many do not have a distinctive symbol, harness or collar.

Service animals may be used in a number of ways to provide assistance, including:

- Guiding people who are blind or have low vision.
- Alerting people who are deaf or hard of hearing.
- Retrieving or picking up items, opening doors or flipping switches for people who have limited use of their hands, arms or legs.
- Pulling wheelchairs.

-
- Providing physical support and assisting with stability and balance.
 - Doing work or performing tasks for persons with traumatic brain injury, intellectual disabilities or psychiatric disabilities, such as reminding a person with depression to take medication.
 - Alerting a person with anxiety to the onset of panic attacks, providing tactile stimulation to calm a person with post-traumatic stress disorder, assisting people with schizophrenia to distinguish between hallucinations and reality, and helping people with traumatic brain injury to locate misplaced items or follow daily routines.

342.4 MEMBER RESPONSIBILITIES

Service animals that are assisting individuals with disabilities are **generally** permitted in all public facilities and areas where the general public is allowed. Department members are expected to treat individuals with service animals with the same courtesy and respect that the Berkeley Police Department affords to all members of the public (28 CFR 35.136).

342.4.1 INQUIRY

If it is apparent or if a member is aware that an animal is a service animal, the individual generally should not be asked any questions as to the status of the animal. If it is unclear whether an animal meets the definition of a service animal, the member should ask the individual only the following questions (28 CFR 35.136(f)):

- Is the animal required because of a disability?
- What task or service has the service animal been trained to perform?

If the individual explains that the animal is required because of a disability and has been trained to work or perform at least one task, the animal meets the definition of a service animal and no further questions as to the animal's status should be asked. The individual should not be questioned about his/her disability nor should the person be asked to provide any license, certification or identification card for the service animal.

342.4.2 ANIMALS IN TRAINING

A service animal in training, that is not a dog, may be denied entry into public establishments. A service dog in training may be allowed entry into public establishments under either of the following conditions.

- The individual with the disability advises they are in the process of training the dog to become a service animal, OR
- The individual advises they are not disabled but are in the process of training the dog to become a service animal and the person has some documentation to identify him or her as a dog trainer.

342.4.3 CONTACT

Service animals are not pets. Department members should not interfere with the important work performed by a service animal by talking to, petting or otherwise initiating contact with a service animal.

342.4.4 REMOVAL

If a service animal is not housebroken or exhibits vicious behavior, poses a direct threat to the health of others, or unreasonably disrupts or interferes with normal business operations, an officer may direct the handler to remove the animal from the premises. Barking alone is not a threat nor

does a direct threat exist if the person takes prompt, effective action to control the service animal (28 CFR 35.136(b)).

Each incident must be considered individually and past incidents alone are not cause for excluding a service animal. Removal of a service animal may not be used as a reason to refuse service to an individual with disabilities. Members of this department are expected to provide all services as are reasonably available to an individual with a disability, with or without a service animal.

342.4.5 COMPLAINTS

When handling calls of a complaint regarding a service animal, members of this department should remain neutral and should be prepared to explain the legal-ADA requirements concerning service animals to the concerned parties. Businesses are required to allow service animals to accompany their handlers into the same areas that other customers or members of the public are allowed (28 CFR 36.302).

Absent a violation of law independent of the-disability lawsADA, officers should take no enforcement action beyond keeping the peace. Individuals who believe they have been discriminated against as a result of a disability should be referred to the Civil Rights Division of the U.S. Department of Justice (DOJ).

Firearms and Tactics Unit

347.1 PURPOSE AND SCOPE

This Policy sets forth guidelines governing the organization and operation of the Department's Firearms and Tactics Unit (FTU).

347.2 POLICY

The FTU shall serve to develop, design, implement, instruct, manage, and evaluate all phases of a comprehensive program to enhance the firearms and tactical skills of officers, sworn personnel. The FTU also serves to provide training in Less than Lethal and chemical agent systems as well as to coordinate the maintenance, servicing, and repair of Departmentally authorized weapons.

347.3 PROCEDURES

The FTU shall be administered by a Program Coordinator, who is responsible to the Professional Standards Division's Personnel and Training Sergeant.

The Program Coordinator shall submit reports summarizing the Unit's activities and projects, as needed, through the Personnel and Training Sergeant and Lieutenant to the Professional Standards Division Captain.

347.4 UNIT COMPOSITION

The FTU is composed of the following positions of responsibility:

- (a) Firearms Program Coordinator as defined in section 347.5
- (b) Firearms Instructors: Sworn Officers, staff who are selected by the Ddepartment who have completed a POST Certified Firearms Instructor course
- (c) Less than Lethal Instructor: A Ffirearms Instructor who has been qualified to train officers, personnel in Lless than Llethal systems deployed by the Ddepartment.
- (d) Armorers: Officers, Members selected by the department who are trained and certified to service and repair Departmentally authorized firearms.
- (e) Lead Armorer: An Aarmorers who is selected by the Personnel and Training Sergeant that works with the Program Coordinator and the Personnel and Training Sergeant to schedule, coordinates and task, weapons maintenance, repair and inventory tracking. The Lead Armorer also manages the equipment in the indoor range and gun cleaning room, inventories, repair schedules, and other hardware related to the FTU. Firearms and Tactics Unit responsibilities
- (f) Chemical Agent Instructors: Officers selected by the Department who have completed requiring certification of completion of a minimum of 40 hours of formal chemical agent instruction training.
- (g) Lead Chemical Agent Instructor: A Cchemical Aagent Instructor who is selected by the

Personnel and Training Sergeant who is responsible for coordinating training and gas mask fit testing as well as the ~~and chemical agent and the~~ purchase and management of related equipment management and purchases

Assignments are based on experience, training and ability, not Departmental rank.

347.5 PROGRAM COORDINATOR

The FTU is administered by a Program Coordinator, who is responsible to the Personnel and Training Sergeant.

The responsibilities of the Program Coordinator include:

- (a) Coordinate, develop, manage, and evaluate all Department sponsored firearms training and tactics programs
- (b) Facilitate and remain cognizant of special weapons training programs and be responsive to specialized firearms training needs.
- (c) Coordinate the selection, evaluation, and the continuing education needs of Firearms Instructors and Armorers.
- (d) Serve as the primary resource in firearms, firearms related equipment and firearms training matters for Department Command Staff. Responsibilities in this area include:
 1. Serve as a resource for firearms related training materials, and equipment and provide presentations to Department Staff on these matters.
 2. Work with the Lead Armorer to research evaluate, and implement ~~evaluate changes to~~ Department issued ammunition, authorized firearms, ~~or~~ related equipment, and/or ~~modifications of related~~ Department procedures, regulations, or rules ~~in regards to these issues~~.
 3. Serve on the Use of Force Review Board when a firearm was involved in the incident under review ~~all Department Shooting Inquiry Boards~~.
- (e) Prepare, submit, justify and track requisitions for firearms training related equipment, materials, and supplies.
- (f) Receive, disburse, and monitor firearms training related equipment, materials and supplies.
- (g) Work with Departmental Defensive Tactics Instructors to coordinate joint/concurrent use of force training for officerssworn personnel.
- (h) Coordinate with Firearms Instructors and the Personnel and Training Sergeant to ensure unit and departmental training and equipment goals are identified and met.
- (i) Establish, maintain, and update an accessible central information depository for firearms related equipment and training matters.

347.6 SELECTION PROCESS

The Selection Panel for all positions described in this policy shall consist of the Firearms and

~~Tactics Coordinator, Lead Armorer and a Firearms Instructor chosen by the Personnel and Training Sergeant shall be run by the Personnel and Training Bureau Sergeant, Firearms and Tactics Coordinator or their designee for all positions except for armorer. The Personnel and Training Sergeant and Lead Armorer, or their designees are responsible for running the selection panel for armorers.~~

Final authority for selection shall rest with the Chief of Police based upon the recommendations of the Selection Panel.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: July 11, 1994

GENERAL ORDER F-5

SUBJECT: DEPARTMENTAL FIREARMS TRAINING UNIT

PURPOSE

- 1 - This Order sets forth policies and guidelines governing the organization and operation of the Department's Firearms Training Unit (FTU).

POLICY

- 2 - The Firearms Training Unit shall serve to develop, design, implement, instruct, manage, and evaluate all phases of a comprehensive program to enhance the firearms and tactical skills of sworn, regularly uniformed and plainclothes personnel, as well as Police Reserves of the Berkeley Police Department. The FTU also serves to coordinate the maintenance, servicing and repair of Departmentally authorized weapons.

PROCEDURES

- 3 - The Firearms Training Unit shall be administered by a Coordinator, who is responsible to the Administrative Division's Personnel and Training Sergeant.
 - (a) The Program Coordinator shall submit reports, summarizing, the Unit's activities and projects, as needed, through the Personnel and Training Sergeant and Administrative Division Lieutenant to the Administrative Division Captain.

UNIT COMPOSITION

- 4 - The Firearms Training Unit is composed of the following positions of responsibility:
 - (a) Firearms Program Coordinator (FPC).
 - (b) Primary Firearms Instructors (PFI): requiring certification of completion of a minimum of 120 hours of formal firearms instruction training.
 - (c) Adjunct Firearms Instructors (AFI): requiring certification of completion of a minimum of 40 hours of formal firearms instruction training.
 - (d) Armorer(s): requiring current certification of formal, specialized training in the servicing and repair of Departmentally authorized firearms.
 - (e) Chemical Agent Instructor (CAI): requiring certification of completion of a minimum of 40 hours of formal chemical agent instruction training.
- 5 - Assignments are based on selection, experience, training and ability, not Departmental rank.

* Entire text is new

BERKELEY POLICE DEPARTMENT

DATE ISSUED: July 11, 1994

GENERAL ORDER F-5

PROGRAM COORDINATOR

- 6 - The Firearms Training Unit is administered by a Program Coordinator, who is responsible to the Personnel and Training Sergeant.
- 7 - The Coordinator's responsibilities include:
 - (a) coordination of the development, design, implementation, instruction, management, and evaluation of all Department sponsored firearms training and tactics programs for sworn regularly uniformed (including Police Reserves) and plainclothes personnel.
 - (b) to facilitate and remain cognizant of special weapons training programs and be responsive to specialized firearms training needs.
 - (c) to coordinate the selection, evaluation, skills enhancement and the tracking of the continuing education needs of Primary and Adjunct Firearms Instructors and Armorers.
 - (d) to serve as the primary resource in firearms, firearms related equipment and firearms training matters for Department Command Staff.
 - (e) to conduct, upon request of Department Staff, research into and / or presentations regarding Departmentally authorized firearms related training matters and equipment.
 - (f) to research, evaluate, propose or make recommendations to Department Command Staff regarding changes in Department issued ammunition, authorized firearms or related equipment, and/or modifications of Department procedures, regulations or rules in regards to these issues.
 - (g) serves on all Department Shooting Inquiry Boards.
 - (h) conducts regular meetings involving all members of the Firearms Training Unit.
 - (i) attends, upon request of a Command Staff member, Departmental Command Staff meetings.
 - (j) prepares, submits, justifies and tracks requisitions for firearms training related equipment, materials, and supplies.
 - (k) receives, disburses and monitors firearms training related equipment, materials and supplies.
 - (l) secures appropriate training sites for training programs.

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- (m) monitors and maintains firearms cleaning supplies and their storage and usage sites.
 - (n) through Unit Armorers, facilitates and remains cognizant of the maintenance, repair and servicing needs of Department issued weapons.
 - (o) maintains liaison with Departmental Defensive Tactics Instructors to coordinate joint/ concurrent use of force training for sworn personnel.
 - (p) establishes and maintains liaison with Firearms Program Administrators and/or Instructors from other agencies and Firearms Instructors organizations.
 - (q) establishes, maintains and updates an accessible central information depository for firearms related equipment and training matters.
- 8 - It is recognized that the duties the Coordinator is responsible or may require time beyond the Coordinator's regular shift. As much as possible and working with the Coordinator's supervisor, the responsibilities should be handled through a flexing of the Coordinator's shift. However, it is recognized that it may occasionally be necessary to compensate, via Compensatory Overtime or Paid Overtime, the Coordinator-when their primary duties do not permit the flexing of his / her shift to meet the duties of the Firearms Program Coordinator.
- 9 - Nothing in this policy precludes the Coordinator from delegating any of their-duties. However, final responsibility for completion of a delegated task rests with the Coordinator.

QUALIFICATION AND SELECTION PROCESS

- 10 - Firearms Instructor Qualifications:
- (a) Demonstrate an interest in firearms instruction.
 - (b) Demonstrate requisite skill level to complete a training course for certification as a Firearms Instructor.
- 11 - Chemical Agent Instructor Qualifications:
- (a) Demonstrate an interest in chemical agent instruction.
 - (b) Demonstrate requisite skill level to complete a training course for certification as Chemical Agent Instructor.
- 12 - Program Coordinator Qualifications:
- (a) Completion of Department probationary period for sworn full-time employees.

* Entire text is new

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- (b) Sworn, full-time Department employee.
 - (c) Completion of a certified Firearms Instructor's Course.
 - (d) Documented experience instructing classroom, dry and live fire exercises.
- 13 - The selection process shall adhere to the policy set forth in General Order P-15.
- 14 - The Selection Panel shall consist of the Administrative Division Captain, Administrative Division Lieutenant, Personnel and Training Sergeant, or their selected alternates.
- 15 - Final authority for selection shall rest with the Chief of Police based upon the recommendations of the Selection Panel.

References: General Orders F-2 and P-15

Hostage and Barricade Incidents

407.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for situations where officers have legal cause to contact, detain or arrest a person, and the person refuses to submit to the lawful requests of the officers by remaining in a structure or vehicle and/or by taking a hostage.

The scope of this policy is not intended to address all variables that officers encounter during their initial response or when a hostage or barricade situation has developed. This policy does not require or purport to recommend specific strategies or tactics for resolution as each incident is a dynamic and rapidly evolving event.

407.1.1 DEFINITIONS

Definitions related to this policy include:

Barricade situation - An incident where a person maintains a position of cover or concealment and ignores or resists law enforcement personnel, and it is reasonable to believe the subject is armed with a dangerous or deadly weapon.

Hostage situation - An incident where it is reasonable to believe a person is:

- (a) Unlawfully held by a hostage-taker as security so that specified terms or conditions will be met.
- (b) Unlawfully held against his/her will under threat or actual use of force.

407.2 POLICY

It is the policy of the Berkeley Police Department to address hostage and barricade situations with due regard for the preservation of life and balancing the risk of injury, while obtaining the safe release of hostages, apprehending offenders and securing available evidence. The National Tactical Officers Association's (NTOA) TOA priority of life decision making process should be applied during hostage and barricade situations.

PRIORITY OF LIFE

The NTOA's priority of life decision making process is as follows.

- (a) Hostages
- (b) Innocent involved civilians
- (c) Police officers
- (d) Suspects and subjects

407.3 COMMUNICATION

When circumstances permit, initial responding officers should try to establish and maintain lines of communication with a barricaded person or hostage-taker. Officers should attempt to identify any additional subjects, inquire about victims and injuries, seek the release of hostages, gather intelligence information, identify time-sensitive demands or conditions and obtain the suspect's surrender.

When available, department-authorized negotiators should respond to the scene as soon as practicable and assume communication responsibilities. Negotiators are permitted to exercise flexibility in each situation based upon their training, the circumstances presented, suspect actions or demands and the available resources.

407.3.1 EMERGENCY COMMUNICATIONS

Only an officer who has been designated by the District Attorney or Attorney General may use or authorize the use of an electronic amplifying or recording device to eavesdrop on or record, or both, oral communication in response to an emergency situation involving a hostage or the barricading of a location, and only when (Penal Code § 633.8(b)):

- (a) The officer reasonably determines an emergency situation exists that involves the immediate danger of death or serious physical injury to any person within the meaning of 18 USC § 2518(7)(a)(i),
- (b) The officer reasonably determines that the emergency situation requires that eavesdropping on oral communication occur immediately, and
- (c) There are grounds upon which an order could be obtained pursuant to 18 USC § 2516(2).
- (d) An application for an order approving the eavesdropping and complying with the requirements of Penal Code § Section 629.50 is made within 48 hours of the beginning of the eavesdropping.
- (e) The contents of any oral communications overheard are recorded on tape or other comparable device.

407.4 FIRST RESPONDER CONSIDERATIONS

First responding officers should promptly and carefully evaluate all available information to determine whether an incident involves, or may later develop into, a hostage or barricade situation.

The first responding officer should immediately request a supervisor's response as soon as it is determined that a hostage or barricade situation exists. The first responding officer shall assume the duties of the supervisor until relieved by a supervisor or a more qualified responder. The officer shall continually evaluate the situation, including the level of risk to officers, to the persons involved and to bystanders, and the resources currently available.

The handling officer should brief the arriving supervisor of the incident, including information about suspects and victims, the extent of any injuries, additional resources or equipment that may be needed, and current perimeters and evacuation areas.

407.4.1 BARRICADE SITUATION

Unless circumstances require otherwise, officers handling a barricade situation should attempt to

avoid a forceful confrontation in favor of stabilizing the incident by establishing and maintaining lines of communication while awaiting the arrival of specialized personnel and trained negotiators. During the interim the following options, while not all-inclusive or in any particular order, should be considered:

- (a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- (b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.
- (c) Request additional personnel, resources and equipment as needed (e.g., Emergency Rescue Vehicle, Mobile Command Vehicle canine team, air support).
- (d) Provide responding emergency personnel with a safe arrival route to the location.
- (e) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.
- (f) Attempt or obtain a line of communication and gather as much information on the subject as possible, including weapons, other involved parties, additional hazards or injuries.
- (g) Establish an inner and outer perimeter as circumstances require and resources permit to prevent unauthorized access.
- (h) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.
- (i) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the Public Information Officer (PIO).
- (j) If necessary and available, establish a tactical or exclusive radio frequency for the incident.
- (k) Establish a command post.

407.4.2 HOSTAGE SITUATION

Officers presented with a hostage situation should attempt to avoid a forceful confrontation in favor of controlling the incident in anticipation of the arrival of specialized personnel and trained hostage negotiators. However, it is understood that hostage situations are dynamic and can require that officers react quickly to developing or changing threats. The following options while not all-inclusive or in any particular order, should be considered:

- (a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- (b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.
- (c) Establish a rapid response team in the event it becomes necessary to rapidly enter a building, structure or vehicle, such as when the suspect is using deadly force against any hostages (see the Rapid Response and Deployment Policy).

-
- (d) Assist hostages or potential hostages to escape if it is reasonably safe to do so. Hostages should be kept separated if practicable pending further interview.
 - (e) Request additional personnel, resources and equipment as needed ~~(e.g., canine team, air support)~~.
 - (f) Provide responding emergency personnel with a safe arrival route to the location.
 - (g) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.
 - (h) Coordinate pursuit or surveillance vehicles and control of travel routes.
 - (i) Attempt to obtain a line of communication and gather as much information about the suspect as possible, including any weapons, victims and their injuries, additional hazards, other involved parties and any other relevant intelligence information.
 - (j) Establish an inner and outer perimeter as resources and circumstances permit to prevent unauthorized access.
 - (k) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.
 - (l) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the PIO.
 - (m) If necessary and available, establish a tactical or exclusive radio frequency for the incident.

407.5 SUPERVISOR RESPONSIBILITIES

Upon being notified that a hostage or barricade situation exists, the supervisor should immediately respond to the scene, assess the risk level of the situation, establish a proper chain of command and assume the role of Incident Commander until properly relieved. This includes requesting the Special Response Team (SRT) if appropriate and apprising the SRT Commander of the circumstances. In addition, the following options should be considered:

- (a) Ensure injured persons are evacuated and treated by medical personnel.
- (b) Ensure the completion of necessary first responder responsibilities or assignments.
- (c) Request crisis negotiators, specialized units, additional personnel, resources or equipment as appropriate.
- (d) Establish a command post location as resources and circumstances permit.
- (e) Designate assistants who can help with intelligence information and documentation of the incident.
- (f) If it is practicable to do so, arrange for video documentation of the operation.
- (g) Consider contacting utility and communication providers to restrict such services (e.g., restricting electric power, gas, telephone service).
 1. When considering restricting communication services, a supervisor should make the determination that there is reason to believe an emergency situation exists involving

immediate danger of death or great bodily harm and that an interruption to communication services is necessary to protect public safety (Penal Code § 11471). The supervisor must ensure the Department obtains a court order, in accordance with Penal Code § 11472, prior to requesting the interruption. ~~In the 1.~~ In the case of an extreme emergency when there is insufficient time to obtain an order prior to the request, application for the order must be submitted within six hours after initiating the interruption (Public Utilities Code § 7908).

- If six hours is not possible, then the application for the court order shall be made at the first reasonably available opportunity, but no later than 24 hours in accordance with Penal Code § 11475.
- (h) Ensure adequate law enforcement coverage for the remainder of the City during the incident. The supervisor should direct non-essential personnel away from the scene unless they have been summoned by the supervisor or the Communications Center.
- (i) Identify a media staging area outside the outer perimeter and have the department Public Information Officer or a designated temporary media representative provide media access in accordance with the Media Relations Policy.
- (j) Identify the need for mutual aid and the transition or relief of personnel for incidents of extended duration.
- (k) Debrief personnel and review documentation as appropriate.

407.6 SPECIAL RESPONSE TEAM RESPONSIBILITIES

The Incident Commander will decide, with input from the SRT Commander and approval from the Chief of Police or his/her designee, whether to deploy SRT during a hostage or barricade situation. Once the Incident Commander authorizes deployment, the SRT Commander or the authorized designee will be responsible for the tactical portion of the operation and will coordinate the transfer of the operation from Operations personnel to SRT personnel.

~~If two SRT Commanders are on scene, one shall assume Tactical Command and the other shall assume Incident Command of the hostage or barricade situation. The Incident Commander shall continue supervision of the command post operation, outer perimeter security and evacuation, media access and support for SRT. The Incident Commander and the SRT Commander or the authorized designee shall maintain communications at all times.~~

407.7 ACTIVATION OF ON DUTY OPERATIONS SRT PERSONNEL

On-duty SRT members assigned to uniformed patrol duty, not otherwise involved in an assignment, will respond to the scene of the incident and support the operation. Notice of this response will be made to the Communication Center by the responding SRT officer as soon as possible.

407.8 ACTIVATION OF ON DUTY NON-OPERATIONS SRT PERSONNEL

Upon request of the Incident Commander, available on-duty SRT members in assignments other than uniformed patrol duty will respond and support the operation. The Communication

Center shall be responsible for notifying on-duty SRT personnel of the incident.

407.9 USE OF FIREARMS

Notwithstanding the provisions of the Use of Force Policy, and with the prior approval of SRT Command, officers may discharge firearms to shoot out lights or effect some other physical action against an inanimate object when it reasonably appears that such discharge can be performed safely and that it will result in a significant advantage in bringing a critical incident to a successful resolution.

407.7407.10 REPORTING

Unless otherwise relieved by a supervisor or Incident Commander, the handling officer at the scene is responsible for the completion and/or coordination of incident reports.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: February 1, 2012

GENERAL ORDER X-1

SUBJECT: CRITICAL INCIDENT RESPONSE/BARRICADED SUBJECT HOSTAGE
NEGOTIATION TEAM OPERATIONS

PURPOSE

- 1 - The purpose of this General Order is to explain basic response procedures to critical incidents, and to establish policies and guidelines governing the organization and operation of the Barricaded Subject Hostage Negotiation Team (hereafter referred to as HNT).

POLICY

- 2 - The Berkeley Police Department shall exercise control over critical incidents, including, but not limited to, barricaded subject and hostage situations. The Department's goals will be to protect the lives of, and minimize hazards to, all persons related to such events.
 - (a) The Department's goal of protecting the lives of all persons shall include the individual responsible for the critical incident, but not to the extent that the safety of others will be compromised.
 - (b) Given the dynamics and unique nature of a critical incident, as much time as may be necessary will be used to advance the potential of a non-violent resolution to the situation.
 - (c) Nothing in this policy shall preclude the use of reasonable force to protect individuals from injury or death.
- 3 - A specialized unit within the Operations Division, the HNT will be trained and equipped to handle the following situations:
 - (a) Barricaded subject and hostage situations;
 - (b) Service of high risk search and/or arrest warrants;
 - (c) Special circumstance search/rescue operations;
 - (d) Special weapon and tactical support for planned or unplanned Departmental operations; and,
 - (e) Special weapon and tactical support for Crowd Management Team (CMT) operations in incidents involving major violence.
- 4 - Operational commitment of the HNT to resolve any incident presumes the perpetrator is armed or has the means to take human life.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: February 1, 2012

GENERAL ORDER X-1

DEFINITIONS

- 5 - For the purpose of this Order, a reference to the masculine includes the feminine, and the singular includes the plural:
- (a) Barricaded Subject: A person who has the capacity to inflict, threatens, or has inflicted, bodily harm to himself or others, and who confines or restricts himself to a location from which he will not voluntarily leave.
 - (b) Hostage: An individual held or controlled by another person as security for the performance of certain acts or to achieve specific demands.
 - (c) Barricade Incident: An event involving a barricaded subject.
 - (d) Hostage Incident: An event where one person holds another hostage.
 - (e) Barricaded Subject Hostage Negotiation Team (HNT): Specially selected employees trained to resolve critical incidents, including, but not limited to, barricaded subject and hostage situations.
 - (f) Inner Perimeter: The geographic area immediately surrounding the location occupied by a barricaded subject or hostage taker that is contained by officers.
 - (g) Outer Perimeter: The geographic area outside the Inner Perimeter which is strictly controlled by police personnel.
 - (h) Immediate Danger Zone: The area wherein a barricaded subject or hostage taker can inflict injury or death.
 - (i) Potential Danger Zone: The area beyond the Immediate Danger Zone within the Outer Perimeter, over which it is necessary to maintain control.

PROCEDURES

Team Organization

- 6 - The HNT is organized into the following elements:
- (a) Command Element: Comprised of one HNT Commander who has responsibility for all HNT operations, and two tactical commanders who have responsibility for their respective tactical teams.
 - (b) Negotiator Element: Comprised of one team leader, an assistant team leader, and 6-8 negotiators; has the responsibility to advance the resolution of a critical incident through intelligence gathering and negotiation.

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- (c) **Tactical Element**: Comprised of two, 12 member tactical teams (designated by the colors "blue" or "gold"); has responsibility for tactical missions, including arrest, containment, evacuation, tactical intelligence gathering, rescue, search, security, and support of other planned department operations.
 - (d) **Tactical Dispatch**: Comprised of Public Safety Dispatchers; may have responsibility for tracking HNT call out status and deployment procedures, establishing communications channels, and maintaining and posting tactical logs and incident events.
 - (e) **Logistics Element**: Comprised of a team leader and three sworn officers; has responsibility for the procurement and maintenance of team equipment and supplies, other projects as assigned by the HNT Commander, and during a team operation, the establishment of the Incident Command Post.
 - (f) **TEMS**: Comprised of sworn officers trained and qualified to the standard of Emergency Medical Technician (EMT); responsible for tactical emergency medical support in HNT operations.
- 7 - The Chief of Police shall assign team personnel in any manner deemed to be in the best interest of the Department.
- 8 - Element Team Leaders, within the scope of their respective duty, are responsible for supervision, leadership, training, equipment maintenance, and overall performance of their Element.

Selection Process

- 9 - At least every two years, HNT command staff shall establish an HNT eligibility list to accommodate HNT staffing needs.
- (a) The announcement and application filing procedures shall adhere to the procedures set forth in General Order P-15.
- 10 - Unless otherwise specified by the Chief of Police, all applicants shall meet the following criteria to be eligible for appointment to the HNT:
- (a) Have at least three years of law enforcement experience;
 - (b) Have successfully completed Department probation for initial appointment;
 - (c) Have Personnel Appraisal Report ratings of at least "meets requirements" for two years preceding application;
 - (d) Successfully complete a selection board interview.
 - (e) Tactical Element applicants shall be able to pass physical fitness and weapons qualification testing.

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- 11 - The Selection Board will be comprised of, at minimum, HNT Command and/or Team Leader representatives.
 - (a) A Commissioner of the Police Review Commission (PRC) shall be permitted to attend the selection board interviews to monitor the interview process.
- 12 - The Selection Board is responsible for the evaluation of each applicant and submission of recommendations regarding eligibility to the **Operations Division Captain**.
- 13 - Candidates who are successful in all aspects of the testing process will be placed on an HNT eligibility list, which will remain in effect for no longer than two years.
 - (a) With the exception of appointments to Team command positions, vacancies on the Team shall be filled from the eligibility list based on recommendations from HNT Command Staff to the Patrol Captain.
 - (b) Final selection authority shall rest with the Chief of Police.
- 14 - The **Operations Division Captain** shall recommend a lieutenant for appointment to the position of HNT Commander based on the lieutenant's overall departmental experience, prior work performance, judgment, and reliability. **The Operations Division Captain shall also recommend a qualified sergeant or lieutenant for the appointment to the position of Tactical Commander based on the same aforementioned factors.**
 - (a) Criteria applicable to consideration of a lieutenant's appointment to the position of HNT Commander should include his/her successful completion of probation at rank, and prior operational experience as a member of HNT.
 - (b) In the event that current Tactical Commanders are not appointed to the position of HNT Commander, the position shall be filled from the rank of captain or lieutenant department-wide.
 - (c) Final authority for selection of any member of the HNT Command Element shall rest with the Chief of Police.

Training

- 15 - When possible, the Personnel & Training Bureau shall arrange for new HNT Tactical and Negotiator Element members to attend an appropriate POST-approved basic training course no later than 12 months after appointment to the team.

Physical Fitness Standards

- 16 - Tactical Element members shall be required to meet physical fitness standards designed to ensure individual capability with regard to physical challenges posed

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by tactical operations.

- (a) Authority to establish and maintain the physical fitness standards shall rest with the HNT command staff.
 - (b) HNT command staff, with the approval of the **Operations Division Captain**, may implement alterations to established physical fitness standards or the testing process.
- 17 - HNT command staff, or their designee(s), will oversee the administration of physical fitness testing, which will be conducted on a semiannual basis.
- (a) The physical fitness test employed by the HNT is at the discretion of the HNT Command staff.
 - (b) A clearly defined scoring scale shall be utilized; a passing score, established by the HNT command staff, shall be conveyed to team members prior to beginning a fitness testing process.
- 18 - If a tactical team member is unable to successfully pass a scheduled physical fitness test, he/she shall be allowed a second opportunity to achieve a passing score no later than 90 days from the initial testing date.
- 19 - Pending participation in a retest described in paragraph 18 of this Order, a tactical team member may continue to participate in HNT training and live operations.
- 20 - If a tactical team member is unable to achieve a passing score after a **second attempt** at the physical fitness test, he/she shall be decertified and removed from the HNT.
- (a) A team member removed from the HNT due to failure to meet established physical fitness standards may apply for reinstatement at the next department-wide selection process.

Service Status

- 21 - Unless officially inactive or excused, Team members will ensure their availability for unrestricted participation in all HNT activities.
- 22 - If a team member is unable to perform the duties associated with their HNT assignment for any reason, including, but not limited to, injury or illness, he/she shall promptly notify the HNT Commander.
- 23 - If, due to injury or illness, a team member requests approval to temporarily suspend his/her participation in HNT activities, he/she must provide medical documentation directing restricted or modified duty.
- 24 - In situations where an injury or illness is of such a nature that the recovery time may exceed a period of six months, the team member may be placed on inactive

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status and precluded from participating in HNT activities.

- (a) Team members who are transferred to inactive status shall be placed on the HNT Eligibility List, ahead of candidates pending first appointment, and below previously listed inactive members of similar team assignment.
 - (b) When the inactive team member is eligible for return to "Active" status without duty restriction, and has passed the established physical fitness test in the case of members returning to the tactical element, he/she may be reappointed to their previous team element at the next available vacancy.
- 25 - A team member may be transferred to inactive status due to a conflict with the his/her primary duty assignment (i.e. Internal Affairs, Homicide, etc.), or when otherwise deemed necessary or appropriate, at the discretion of and for a period determined by the Chief of Police.
- 26 - In the event a team member is placed on inactive status, the vacant position may be filled by an appointment from the HNT Eligibility List.
- 27 - A team member who has been on inactive status for longer than twelve consecutive months due to an injury or illness may be removed from the team at the discretion of the Chief of Police.

Command Structure and Responsibilities

- 28 - In operations conducted prior to the transfer of command authority from the **Operations Division Incident Commander** to a HNT Commander, Departmental chain of command and rank structure shall be adhered to.
- (a) In the event an HNT Commander is unavailable, HNT Command will be comprised of the **Operations Division Incident Commander** and an HNT Tactical Element Team Leader.
- 29 - When command authority has been transferred to a HNT Commander, the chain of command for HNT personnel shall be:
- (a) Incident Commander: Has responsibility to relieve ranking **Operations Division** officer at the scene of the critical incident and assume responsibility for all related field operations.
 - (1) Shall develop and ensure the proper resources to implement a tactical plan to resolve the situation.
 - (2) Reports to the Operations Captain, who: ensures the Incident Commander develops and has the resources to implement a plan to resolve the situation; makes notifications to other agencies and individuals when/if appropriate (including the PRC); to provide requisite media liaison; and, reports to the Chief of Police, as necessary.

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- (b) Tactical Commander: Reports to the Incident Commander and is responsible for operations within the inner perimeter.
 - (c) HNT Team Leader: Has responsibility for activities of subordinate HNT members:
 - (1) Tactical Team Leader: Under command of the HNT Tactical Commander, is responsible for the coordination and conduct of actions necessary to implement a tactical plan and assure the success of the assigned mission.
 - (2) Assistant Team Leader: Has responsibility for activities of subordinate HNT members.
 - (3) Negotiator Team Leader: Reports directly to the HNT Incident Commander; has responsibility to direct the establishment and maintenance of communications with a barricaded subject or hostage taker.
- 30 - All team members, whether assigned to the Command, Tactical, Negotiator, Logistics, Dispatch, or TEMS Element of the team, shall be responsible for carrying out all tasks and duties assigned by their supervisors.
- (a) Failure of a team member to perform assigned duties may negatively impact the ability of the entire team to perform it's mission. Accordingly, that member may be subject to disciplinary action, up to and including removal from the team.

Patrol Response Procedures

- 31 - Upon notification that an actual or potential critical incident exists, on-duty Operations Division personnel shall immediately respond.
- 32 - Operations Division responsibilities include, but are not limited to:
- (a) Protection of all life: hostages/victims, citizens, emergency response personnel, and suspects.
 - (b) Determination if the facts of the event indicate a barricaded subject and/or hostage taking incident exists.
 - (c) Establishment of an Inner Perimeter using as few officers as possible, who are placed to take advantage of cover, avoid crossfire situations, sufficiently contain the location (e.g., isolates the perpetrator), block routes of escape, and control police activity.
 - (d) Evacuation of injured persons, neighbors and by-standers within the Immediate Danger Zone, and contact with citizens in the Potential Danger Zone.

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- (e) Establishment of an Outer Perimeter that controls pedestrian and vehicular traffic.
 - (f) Attempt to establish communication with the subject.
 - (g) Establish an Incident Command Post, place Patrol communications on a separate radio channel, and initiate a chronological log that includes all pertinent incident information (i.e., suspect actions, weapons discharge, etc.).
- 33 - Strict fire discipline shall be maintained, with adherence to Police Regulation 323 and General Order U-2.
- (a) Notwithstanding the provisions of PR 323 and GO U-2, and with the prior approval of HNT Command, officers may discharge firearms to shoot out lights or effect some other physical action against an inanimate object when it reasonably appears that such discharge can be performed safely and that it will result in a significant advantage in bringing a critical incident to a successful resolution.
- 34 - On-duty HNT members assigned to uniformed patrol duty, not otherwise involved in an assignment, will respond to the scene of the incident and provide informational and operational assistance to the scene supervisor.
- (a) Notice of this response will be made to the Communication Center by the responding HNT officer as soon as possible.

On-Duty HNT Activation / Response Procedures

- 35 - Upon request of the ranking **Operations** Division officer at the scene, available on-duty HNT members in assignments other than uniformed patrol duty will respond and provide required informational and operational assistance.
- (a) When requested, the Communication Center shall direct all on-duty HNT personnel to respond to the critical incident via intra-department voice-call and all police radio frequencies.
 - (b) If HNT Tactical Element officers sufficient to initiate tactical action at or within the Inner Perimeter respond to the on-duty HNT activation, an HNT Commander shall be contacted and directed to respond to the Incident Command Post.
- 36 - Subsequent to arrival at the Incident Command Post and briefing by the **Operations** Division Incident Commander, an HNT Commander shall assume the responsibilities of Incident Commander for the incident.

General HNT Activation / Response Procedures

- 37 - It shall be the responsibility of the **Operations** Division Watch Commander, the ranking **Operations** Division supervisor, or HNT Commander, if an on-duty HNT

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activation has occurred, to initiate a general activation of the HNT immediately following the determination that one of the following situations exist:

- (a) Barricade incident (as defined in paragraph 5(c) of this Order);
 - (b) Hostage incident (as defined in paragraph 5(d) of this Order); or,
 - (c) Any situation beyond the capacity of on-duty personnel to resolve and which more properly falls within the capabilities of the HNT.
- 38 - Upon determination that the HNT is needed, HNT command shall initiate team notifications, begin personnel/duty assignments, and establish communication with Operations personnel in preparation for the transition of command.
- 39 - Upon determination of HNT Command personnel, the team will assume control of the scene and responsibility for the incident's resolution.
- (a) Negotiator Element personnel will relieve those engaged in communication with the subject and/or assume responsibility for the communication and negotiation process.
 - (b) Tactical Element personnel will relieve initial responding officers and assume control over activities at and within the Inner Perimeter.
 - (c) The HNT Incident or Tactical Commander will relieve the Operations Division Commanding Officer/ Supervisor.
 - (d) The HNT Incident Commander will assume responsibility for the resolution of the incident.

Planned Operations

- 40 - In planned operations in which HNT personnel are to be utilized, such as high risk search and/or arrest warrant service, the request shall be made through the Operations Division Captain.
- (a) HNT should be notified as soon as practical once a high risk operation has been identified in order to maximize the opportunity for preparation.

Post-Operational Procedures

- 41 - As soon as practical following the conclusion of the planned or unplanned incident, personnel involved in the Department's response will participate in a debriefing.
- (a) Information received in a post-operational debriefing, as well as from other available sources, shall be documented in an After Action Report.
 - (b) HNT command shall ensure After Action Reports are completed within 72

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hours of the date of the debriefing.

- 42 - Detective Bureau personnel will be assigned to investigate all criminal acts associated with an incident.
 - (a) HNT personnel who witnessed criminal activity, or have first-hand knowledge of facts related to such activity, will submit supplemental reports documenting said information to further the criminal investigation.
- 43 - Should police activity relating to the critical incident require administrative review, HNT personnel shall assist said inquiry pursuant to policies and procedures set forth in law and Departmental Orders.

HNT Rifle Deployment in Patrol Operations

- 44- Qualified HNT Tactical Element members, when assigned to uniformed Operations Division duty, shall carry an HNT rifle during the course of their duty shift.
 - (a) HNT Tactical Element members not assigned to uniformed Operations Division duty may carry their assigned HNT rifle during the course of their duty shift.
 - (b) Exception to this policy shall be authorized by the HNT Commander, his/her designee, or in unusual circumstances, the HNT member's Operations Division supervisor.
- 45 - The HNT rifle is intended as a supplemental firearm to the pistol and shotgun.
 - (a) Only rifles and ammunition that have been specifically authorized and provided by the Department shall be used.
 - (b) The HNT rifle will be stored, maintained, handled, carried while on-duty in police vehicles, and deployed in accordance with the procedures set forth in General Order F-6.
- 46 - Operations Division Supervisors shall be responsible for insuring all qualified HNT Tactical Element members assigned to Patrol duty under their supervision adhere to the above described policies and procedures regarding the carry, deployment and use of HNT rifles during the HNT officer's duty shift.

References: General Order C-64, D-2, F-6, P-12, P-15, P-26 and U-2
Police Regulations 321 and 323
Event Management Manual

Foreign Diplomatic and Consular Representatives

412.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that members of the Berkeley Police Department extend appropriate privileges and immunities to foreign diplomatic and consular representatives in accordance with international law.

412.2 POLICY

The Berkeley Police Department respects international laws related to the special privileges and immunities afforded foreign diplomatic and consular representatives assigned to the United States.

All foreign diplomatic and consular representatives shall be treated with respect and courtesy, regardless of any privileges or immunities afforded them.

412.3 CLAIMS OF IMMUNITY

If a member comes into contact with a person where law enforcement action may be warranted and the person claims diplomatic or consular privileges and immunities, the member should, without delay:

- (a) Notify a supervisor.
- (b) Advise the person that his/her claim will be investigated and he/she may be released in accordance with the law upon confirmation of the person's status.
- (c) Request the person's identification card, either issued by the U.S. Department of State (DOS), Office of the Chief of Protocol, or in the case of persons accredited to the United Nations, by the U.S. Mission to the United Nations. These are the only reliable documents for purposes of determining privileges and immunities.
- (d) Contact the DOS Diplomatic Security Command Center at 571-345-3146 or toll free at 866-217-2089, or at another current telephone number and inform the center of the circumstances.
- (e) Verify the immunity status with DOS and follow any instructions regarding further detention, arrest, prosecution and/or release, as indicated by the DOS representative. This may require immediate release, even if a crime has been committed.

Identity or immunity status should not be presumed from the type of license plates displayed on a vehicle. If there is a question as to the status or the legitimate possession of a Diplomat or Consul license plate, a query should be run via the National Law Enforcement Telecommunications System (NLETS), designating "US" as the state.

412.4 ENFORCEMENT

If the DOS is not immediately available for consultation regarding law enforcement action, members shall be aware of the following:

- (a) Generally, all persons with diplomatic and consular privileges and immunities may be issued a citation or notice to appear. However, the person may not be compelled to sign the citation.
- (b) All persons, even those with a valid privilege or immunity, may be reasonably restrained in exigent circumstances for purposes of self-defense, public safety or the prevention of serious criminal acts.
- (c) An impaired foreign diplomatic or consular representative may be prevented from driving a vehicle, even if the person may not be arrested due to privileges and immunities.
 - 1. Investigations, including the request for field sobriety tests, chemical tests and any other tests regarding impaired driving may proceed but they shall not be compelled.
- (d) The following persons may not be detained or arrested, and any property or vehicle owned by these persons may not be searched or seized:
 - 1. Diplomatic-level staff of missions to international organizations and recognized family members
 - 2. Diplomatic agents and recognized family members
 - 3. Members of administrative and technical staff of a diplomatic mission and recognized family members
 - 4. Career consular officers, unless the person is the subject of a felony warrant
- (e) The following persons may generally be detained and arrested:
 - 1. International organization staff; however, some senior officers are entitled to the same treatment as diplomatic agents.
 - 2. Support staff of missions to international organizations
 - 3. Diplomatic service staff and consular employees; however, special bilateral agreements may exclude employees of certain foreign countries.
 - 4. Honorary consular officers
 - 5. Whenever an officer arrests and incarcerates, or detains for investigation for over two hours, a person with diplomatic and consular privileges and immunities, the officer shall promptly advise the person that he/she is entitled to have his/her government notified of the arrest or detention (Penal Code § 834c). If the individual wants his/her government notified, the officer shall begin the notification process.

412.5 DOCUMENTATION

All contacts with persons who have claimed privileges and immunities afforded foreign diplomatic and consular representatives should be thoroughly documented and the related reports forwarded to DOS.

412.6 DIPLOMATIC IMMUNITY TABLE

Reference table on diplomatic immunity:

Category	Arrested or Detained	Enter Residence Subject to Ordinary Procedures	Issued Traffic Citation	Subpoenaed as Witness	Prosecuted	Recognized Family Members
Diplomatic Agent	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Member of Admin and Tech Staff	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Service Staff	Yes (note (a))	Yes	Yes	Yes	No for official acts Yes otherwise (note (a))	No immunity or inviolability (note (a))
Career Consul Officer	Yes if for a felony and pursuant to a warrant (note (a))	Yes (note (d))	Yes	No for official acts Testimony may not be compelled in any case	No for official acts Yes otherwise (note (a))	No immunity or inviolability
Honorable Consul Officer	Yes	Yes	Yes	No for official acts Yes otherwise	No for official acts Yes otherwise	No immunity or inviolability
Consulate Employees	Yes (note (a))	Yes	Yes	No for official acts Yes otherwise	No for official acts Yes otherwise (note (a))	No immunity or inviolability (note (a))
Int'l Org Staff (note (b))	Yes (Note (c))	Yes (Note (c))	Yes	Yes (note (c))	No for official acts Yes Otherwise (note (c))	No immunity or inviolability
Diplomatic-Level Staff of Missions to Int'l Org	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Support Staff of Missions to Int'l Orgs	Yes	Yes	Yes	Yes	No for official acts Yes otherwise	No immunity or inviolability

Notes for diplomatic immunity table:

- (a) This table presents general rules. The employees of certain foreign countries may enjoy higher levels of privileges and immunities on the basis of special bilateral agreements.
- (b) Reasonable constraints, however, may be applied in emergency circumstances involving self-defense, public safety, or in the prevention of serious criminal acts.
- (c) A small number of senior officers are entitled to be treated identically to diplomatic agents.
- (d) Note that consul residences are sometimes located within the official consular premises. In such cases, only the official office space is protected from police entry.