

Child and Dependent Adult Safety

340.1 PURPOSE AND SCOPE

State

This policy provides guidelines to ensure that children and dependent adults are not left without appropriate care in the event their caregiver or guardian is arrested or otherwise prevented from providing care due to actions taken by members of this department (Penal Code § 833.2(a)).

This policy does not address the actions to be taken during the course of a child abuse or dependent adult investigation. These are covered in the Child Abuse and Adult Abuse policies.

340.2 POLICY

Best Practice

It is the policy of this department to mitigate, to the extent reasonably possible, the stressful experience individuals may have when their parent or caregiver is arrested. The Berkeley Police Department will endeavor to create a strong, cooperative relationship with local, state and community-based social services to ensure an effective, collaborative response that addresses the needs of those affected, including call-out availability and follow-up responsibilities.

340.3 PROCEDURES DURING AN ARREST

State

When encountering an arrest or prolonged detention situation, officers should make reasonable attempts to determine if the arrestee is responsible for children or dependent adults. In some cases this may be obvious, such as when children or dependent adults are present. However, officers should inquire if the arrestee has caregiver responsibilities for any children or dependent adults who are without appropriate supervision. The following steps should be taken (Penal Code § 13517.7(b)(1)):

- (a) Inquire about and confirm the location of any children or dependent adults.
- (b) Look for evidence of children and dependent adults. Officers should be mindful that some arrestees may conceal the fact that they have a dependent for fear the individual may be taken from them.
- (c) Consider inquiring of witnesses, neighbors, friends and relatives of the arrestee as to whether the person is responsible for a child or dependent adult.

Whenever reasonably possible, officers should take reasonable steps to accomplish the arrest of a parent, guardian or caregiver out of the presence of his/her child or dependent adult. Removing children or dependent adults from the scene in advance of the arrest will generally ensure the best outcome for the individual.

Whenever it is safe to do so, officers should allow the parent or caregiver to assure children or dependent adults that they will be provided care. If this is not safe or if the demeanor of the parent or caregiver suggests this conversation would be non-productive, the officer at the scene should

explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that he/she will receive appropriate care.

340.3.1 AFTER AN ARREST

Best Practice

Whenever an arrest is made, the officer should take all reasonable steps to ensure the safety of the arrestee's disclosed or discovered children or dependent adults.

Officers should allow the arrestee reasonable time to arrange for care of children and dependent adults. Temporary placement with family or friends may be appropriate. However, any decision should give priority to a care solution that is in the best interest of the child or dependent adult. In such cases the following guidelines should be followed:

- (a) Allow the person reasonable time to arrange for the care of children and dependent adults with a responsible party, as appropriate.
 1. Officers should consider allowing the person to use his/her cell phone to facilitate arrangements through access to contact phone numbers, and to lessen the likelihood of call screening by the recipients due to calls from unknown sources.
- (b) Unless there is evidence to the contrary (e.g., signs of abuse, drug use, unsafe environment), officers should respect the parent or caregiver's judgment regarding arrangements for care. It is generally best if the child or dependent adult remains with relatives or family friends that he/she knows and trusts because familiarity with surroundings and consideration for comfort, emotional state and safety are important.
 1. Except when a court order exists limiting contact, the officer should attempt to locate and place children or dependent adults with the non-arrested parent, guardian or caregiver.
- (c) Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.
- (d) Notify Child Protective Services or ~~the Division of Aging and~~ Adult Protective Services, if appropriate.
- (e) Notify the a field supervisor ~~or Watch Commander~~ of the disposition of children or dependent adults.

If children or dependent adults are at school or another known location outside the household at the time of arrest, the arresting officer should attempt to contact the school or other known location and inform the principal or appropriate responsible adult of the caregiver's arrest and of the arrangements being made for the care of the arrestee's dependent. The result of such actions should be documented in the associated report.

340.3.2 DURING THE BOOKING PROCESS

State

During the booking process the arrestee shall be allowed to make additional telephone calls to relatives or other responsible individuals as is reasonably necessary to arrange for the care of any child or dependent adult. These telephone calls should be given as soon as practicable and are in addition to any other telephone calls allowed by law (Penal Code § 851.5(c)).

If an arrestee is unable to resolve the care of any child or dependent adult through this process, a supervisor should be contacted to determine the appropriate steps to arrange for care. These steps may include additional telephone calls or contacting a local, county or state services agency.

340.3.3 REPORTING

Best Practice

~~(a) For all arrests where children are present or living in the household, the reporting member will document the following information:~~

- ~~1. Name~~
- ~~2. Sex~~
- ~~3. Age~~
- ~~4. Special needs (e.g., medical, mental health)~~
- ~~5. How, where and with whom or which agency the child was placed~~
- ~~6. Identities and contact information for other potential caregivers~~
- ~~7. Notifications made to other adults (e.g., schools, relatives)~~

~~(b) For all arrests where dependent adults are present or living in the household, the reporting member will document the following information:~~

- ~~1. Name~~
- ~~2. Sex~~
- ~~3. Age~~
- ~~4. Whether he/she reasonably appears able to care for him/herself~~
- ~~5. Disposition or placement information if he/she is unable to care for him/herself~~

340.3.4 SUPPORT AND COUNSELING REFERRAL

Best Practice

If, in the judgment of the handling officers, the child or dependent adult would benefit from additional assistance, such as counseling services, contact with a victim advocate or a crisis telephone number, the appropriate referral information may be provided.

340.4 DEPENDENT WELFARE SERVICES

State

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any child or dependent adult, the handling officer should contact the appropriate welfare service or other department-approved social service to determine whether protective custody is appropriate (Welfare and Institutions Code § 305).

Only when other reasonable options are exhausted should a child or dependent adult be transported to the police facility, transported in a marked patrol car or taken into formal protective custody.

Under no circumstances should a child or dependent adult be left unattended or without

appropriate care.

340.5 TRAINING

State

The Personnel and Training Sergeant is responsible to ensure that all personnel of this department who may be involved in arrests affecting children or dependent adults receive approved POST-approved training on effective safety measures when a parent, guardian or caregiver is arrested (Penal Code § 13517.7).

Patrol Function

400.1 PURPOSE AND SCOPE

The purpose of this policy is to define the patrol function and address intra-organizational cooperation and information sharing.

400.2 INFORMATION SHARING

To the extent feasible, all information relevant to the mission of the Department should be shared among all divisions and specialized units on a timely basis. Members should be provided with opportunities on a regular basis to share information during the daily briefings and to attend briefings of other divisions or specialized units. Additionally, information should be shared with outside agencies and the public in conformance with department policies and applicable laws. Members are encouraged to share information with other units and divisions.

400.3 POLICY

The Berkeley Police Department provides patrol services 24 hours a day, seven days a week and will prioritize responses to requests for emergency services using available resources to enhance the safety of the public and department members.

400.4 CROWDS, EVENTS AND GATHERINGS

Officers may encounter gatherings of people, including but not limited to, civil demonstrations, civic, social and business events, public displays, parades and sporting events. Officers should monitor such events as time permits in an effort to keep the peace and protect the safety and rights of those present. A patrol supervisor should be notified when it becomes reasonably foreseeable that such an event may require increased monitoring, contact or intervention.

Officers responding to an event or gathering that warrants law enforcement involvement should carefully balance the speech and association rights of those present with applicable public safety concerns before taking enforcement action.

Generally, officers should consider seeking compliance through advisements and warnings for minor violations and should reserve greater enforcement options for more serious violations or when voluntary compliance with the law is not achieved.

Officers are encouraged to contact organizers or responsible persons to seek voluntary compliance that may address relevant public safety/order concerns.

Officers should consider enforcement of applicable state and local laws, such as Penal Code 602.1 (obstructing or intimidating business operators), when the activity blocks the entrance or egress of a facility or location and when voluntary compliance with the law is not achieved.

400.3.1 CAMPUS LIAISON

~~UC Berkeley The <<<college/university>>> has designated a liaison between our department and students exercising rights guaranteed by the First Amendment to the United States Constitution, a similar provision of the California Constitution or both (Education Code § 66303). The designated department staff member will work with this liaison regarding relevant issues, scheduled events, training and crowd management control.~~

400.5 FUNCTION

Patrol will generally be conducted by uniformed officers in clearly marked law enforcement vehicles in assigned jurisdictional areas of Berkeley. The function of patrol is to respond to calls for assistance and reports of criminal activity, act as a deterrent to crime, enforce state and local laws, identify community needs, provide support and assistance to the community and respond to emergencies.

Patrol services include, but are not limited to:

- (a) Responding to emergency calls for service.
- (b) Apprehending criminal offenders.
- (c) Providing mutual aid and assistance to other agencies for emergency and law enforcement-related activities.
- (d) Preventing criminal acts, traffic violations and collisions, maintaining public order and discovering hazardous situations or conditions.
- (e) Responding to reports of criminal and non-criminal acts.
- (f) Responding to routine calls for service, such as public assistance or public safety.
- (g) Carrying out crime prevention activities such as residential inspections, business inspections and community presentations.
- (h) Carrying out community oriented policing and problem-solving activities including the application of resources to improve or resolve specific problems or situations and contacting or assisting members of the public in a positive way.
- (i) Directing and controlling traffic.

Briefing Training

402.1 PURPOSE AND SCOPE

Briefing training is generally conducted at the beginning of the officer's assigned shift. Briefing provides an opportunity for important exchange between employees and supervisors. A supervisor generally will conduct Briefing; however officers may conduct Briefing for training purposes with supervisor approval.

Briefing should accomplish, at a minimum, the following basic tasks:

- (a) Briefing officers with information regarding daily patrol activity, with particular attention given to unusual situations and changes in the status of wanted persons, stolen vehicles, and major investigations
- (b) Notifying officers of changes in schedules and assignments
- (c) Notifying officers of new Special Orders or changes in Special Orders
- (d) Reviewing recent incidents for training purposes
- (e) Providing training on a variety of subjects.

402.2 PREPARATION OF MATERIALS

The supervisor conducting Briefing is responsible for preparation of the materials necessary for a constructive briefing. Supervisors may delegate this responsibility to a subordinate officer in his or her absence or for training purposes.

402.3 RETENTION OF BRIEFING TRAINING RECORDS

Briefing training materials and a curriculum or summary shall be forwarded to the Personnel and Training Sergeant for inclusion in training records, as appropriate.

Ride-Along Program Policy

405.1 PURPOSE AND SCOPE

The Ride-Along Program provides an opportunity for specified individuals to experience citizens to experience the Berkeley Police Department the law enforcement function first hand. This policy provides the requirements and the, approval process, and hours of operation for the Ride-Along Program.

405.1.1 ELIGIBILITY

~~The Berkeley Police Department Ride-Along Program is offered to residents, students and those employed within the City. Every attempt will be made to accommodate interested persons however any applicant may be disqualified without cause.~~ The Berkeley Police Department Ride-Along Program is offered to Berkeley Police Aides, Public Safety Dispatchers, Citizen Academy pParticipants, Berkeley High School Justice Academy pParticipants, potential Berkeley Police Department eEmployees, and individuals specifically authorized by the Patrol Watch Commander or Personnel and Training Sergeant. Every attempt will be made to accommodate interested persons, however, any applicant may be disqualified without cause.

The following factors may be considered in disqualifying an applicant and are not limited to:

- Being under 15 years of age
- Prior criminal history
- Pending criminal action
- Pending lawsuit against the Department
- Denial by any supervisor

405.2 PROCEDURE TO REQUEST A RIDE-ALONG

Generally, ride-along requests will be scheduled by the Personnel and Training Bureau Sergeant. The Personnel and Training Bureau Sergeant will schedule a date, based on the availability and staffing of Patrol. If the ride-along request is denied after the request has been made, a representative of the Department will contact the applicant and advise him/her of the denial.

On the day of the ride-along, at the PSB, The participant will complete a ride-along waiver form. Information requested will include a valid ID or California driver's license, address, and telephone number. If the participant is under 18 years of age, a parent/guardian must be present to complete the ride-along waiver form, Ride-Along Form.

~~The Personnel and Training Bureau Sergeant will schedule a date, based on availability, at least one week after the date of application. The waiver form will~~ If approved, a copy will be forwarded to the respective Watch Commander for review. Once the ride-along is completed, the Watch Commander will forward the waiver form to the Personnel and Training Bureau, as soon as

~~possible for his/her scheduling considerations.~~

~~If the ride-along is denied after the request has been made, a representative of the Department will contact the applicant and advise him/her of the denial.~~

405.2.1 PROGRAM PARTICIPANTS

Police Aides- Police ~~a~~Aides will ride a minimum of ~~four~~4 hours every other month with a Berkeley Police Officer. The ~~a~~Aides are expected to make their own ride-along arrangements, obtaining approval from the Personnel and Training Bureau Sergeant no less than ~~three~~3 days in advance of the selected ride-along date. ~~The assigned Police Officer shall complete the form provided by the Police Aide at the conclusion of the ride-along, confirming the date and number of hours and the name of the officer with whom they drove.~~

Public Safety Dispatchers- Public Safety Dispatchers will be permitted to ride-along with a ~~p~~Patrol ~~o~~Officer with the expressed permission of the on-duty Dispatch Supervisor or Communications Center Manager and the on-duty Patrol Watch Commander. Training is the primary reason for allowing ~~dispatchers~~ the ~~Public Safety Dispatchers~~ the opportunity to participate in the ride-along program. No ~~dispatcher~~Public Safety Dispatcher shall be allowed to participate in the ride-along program if his/her absence will result in a staffing shortage in the Communications Center. The ride-along shall not exceed four hours in duration.

Citizen Academy and BHS Justice Academy Participants- Citizen Academy and BHS Justice Academy ~~p~~Participants will be permitted to ride-along with a ~~p~~Patrol ~~o~~Officer with the expressed permission of the Justice Academy Liaison. The ride-along shall not exceed four hours ~~in~~ duration.

Potential Berkeley Police Department Employees- Police Officer and Public Safety Dispatcher candidates in the hiring process will be permitted to ride-along with a ~~p~~Patrol ~~o~~Officer with the expressed permission of the Personnel and Training Bureau Sergeant.

Individuals ~~S~~pecifically ~~A~~uthorized by the Chief of Police or his/her ~~D~~esignee- Individuals shall submit their request, in writing, to the Chief of Police ~~or his/her~~ /designee. The Chief of Police ~~or his/her~~ /designee will render a decision based upon the totality of the circumstances.

It is the policy of the Department that only requests of an exceptional nature/circumstances will be approved for a ride-along.

~~Once approved, civilian ride-alongs will be allowed to ride no more than once every six months. An exception would apply to the following: Cadets, Explorers, RSVP, Chaplains, Reserves, police applicants, and all others with approval of the Watch Commander.~~

~~An effort will be made to ensure that no more than one citizen will participate in a ride-along during any given time period. Normally, no more than one ride-along will be allowed in the officer's vehicle at a given time.~~

~~Ride-along requirements for police cadets are covered in the Police Cadets Policy.~~

405.2.2 SUITABLE ATTIRE

Any person approved ~~for a ride-along to ride-along~~ is required to be suitably dressed in collared shirt, blouse or jacket, slacks and shoes. Sandals, T-shirts, tank tops, shorts and ripped or torn blue jeans are not permitted. ~~Hats and ball caps will not be worn in the police vehicle.~~ The Watch Commander or field supervisor may refuse a ride along to anyone not properly dressed.

405.2.3 PEACE OFFICER RIDE-ALONGS

Off-duty members of this department or any other law enforcement agency will not be permitted to ride-along with on-duty officers without the expressed consent of the Watch Commander. In the event that such a ride-along is permitted, the off-duty employee shall not be considered on-duty and shall not represent themselves as a peace officer or participate in any law enforcement activity except as emergency circumstances may require.

405.2.4 RIDE-ALONG CRIMINAL HISTORY CHECK

All ~~r~~Ride-along applicants are subject to a criminal history check. The criminal history check may include a local records check and a Department of Justice Automated Criminal History System check through CLETS prior to their approval as a ride-along with a law enforcement officer (provided that the ride-along is not an employee of the Berkeley Police Department) (CLETS Policies, Practices and Procedures Manual § 1.6.1.F.2.)

405.3 OFFICER'S RESPONSIBILITY

The officer shall advise ~~Dispatch~~~~the dispatcher~~ that a ride-along is present in the vehicle before going into service. Officers shall consider the safety of the ride-along at all times. Officers should use sound discretion when encountering a potentially dangerous situation, and if feasible, let the ~~ride-along~~participant out of the vehicle in a well-lighted place of safety. The ~~officer shall advise Dispatch~~ of the situation and as soon as practical have another police unit respond to pick up the participant at that location. The ride-along may be continued or terminated at this time.

~~The Watch Commander is responsible for maintaining and scheduling ride-alongs. Upon completion of the ride-along, the yellow form shall be returned to the Watch Commander with any comments which may be offered by the officer.~~

405.4 CONTROL OF RIDE-ALONG

The assigned employee shall maintain control over the ride-along at all times and instruct him/her in the conditions that necessarily limit their participation. These instructions should include:

- (a) The ride-along will follow the directions of the officer.
- (b) The ride-along will not become involved in any investigation, handling of evidence, discussions with victims or suspects, or handling any police equipment.
- (c) The ride-along may terminate the ride at any time and the officer may return the ~~observer~~ ride-along to their home or to the ~~PSB~~station if the ride-along interferes with the performance of the officer's duties.

~~(c)(d) No ride-along shall be allowed in the Jail.~~

~~(d) Ride-alongs may be allowed to continue riding during the transportation and booking process provided this does not jeopardize their safety.~~

(e) Officers will not allow any ride-alongs to be present in any residences or situations that would jeopardize their safety or cause undue stress or embarrassment to a victim or any other citizen.

~~(f) Under no circumstance shall a civilian ride-along be permitted to enter a private residence with an officer without the expressed consent of the resident or other authorized person.~~

~~(g) The officer should explain beats and general procedures to the ride-along. Questions should be encouraged and every effort should be made to answer questions in an understandable manner.~~

~~(f)(h) Officers should give the ride-along brief instruction in the use of the radio should the need for them to use it arise.~~

BERKELEY POLICE DEPARTMENT
TRAINING & INFORMATION BULLETIN



Date: February 28, 2005

Number: 128

Revised

SUBJECT: RIDE-ALONG PROGRAM

INTRODUCTION

- 1- In 1970, the Berkeley Police Department Ride-Along Program was instituted. However, due to increased violence, liability issues and risk of injury to ride-along participants, involvement in the program by the general public was rescinded on October 18, 1991. The purpose of this revised Training and Information Bulletin is to delineate new guidelines governing this program.

PROCEDURE

- 2- As of this date, the only persons eligible to ride along with a Patrol Officer are Berkeley Police Aides, Public Safety Dispatchers, Citizen Academy Participants, potential Berkeley Police Department Employees, and individuals specifically authorized by the Chief of Police.
 - a. Police Aides - Ride-Along Assignment Procedures
 - (i) The Berkeley Police Aide Program Procedural Manual provides in-depth instructions regarding the Police Aide ride-along program. The administration of the Police Aide Program is assigned to the Personnel and Training Bureau, Aide Coordinator.
 - i. Police Aides will ride a minimum of 4 hours per month with a Berkeley Police Officer
 - ii. Aides are expected to make their own ride-along arrangements, obtaining approval from the Personnel and Training Aide Coordinator no less than 3 days in advance of the selected ride-along date.
 - iii. The assigned officer shall complete the form provided by the Police Aide at the conclusion of the ride-along, confirming the date and number of hours and the name of the officer who drove.
 - b. Public Safety Dispatchers - Ride-Along Assignment Procedures
 - (1) Public Safety Dispatchers will be permitted to ride-along with a Patrol Officer with the expressed permission of the on-duty Senior Public Safety Dispatcher or, in his/her absence, the on-duty senior dispatcher and the on-duty patrol watch commander.

- i. Training is the primary reason for allowing Public Safety Dispatchers the opportunity to participate in the ride-along program.
 - ii. No Public Safety Dispatcher shall be allowed to participate in the ride-along program if his/her absence will result in a staffing shortage in the Communication Center.
 - iii. The ride-along shall not exceed four hours in duration.
 - c. Citizen Academy- Ride-Along Assignment Procedures
 - (1) Citizen Academy participants will be permitted to ride-along with a Patrol Officer with the expressed permission of the Community Services Bureau Sergeant.
 - (2) The ride-along shall not exceed four hours in duration.
 - d. Potential Berkeley Police Department Employees- Ride-Along Assignment Procedures
 - (1) Police Officer and Public Safety Dispatcher candidates in the hiring process will be permitted to ride-along with a Patrol Officer with the expressed permission of the Personnel and Training Sergeant.
 - e. Individuals specifically authorized by the Chief of Police or his/her designee.
 - (1) Individuals shall submit their request, in writing, to the Chief of Police/designee. The Chief of Police/designee will render a decision based upon the total circumstances.
 - (2) It is the policy of the Department that only requests of an exceptional nature/circumstances will be approved for a ride-along.
 - i. If the request is approved, the Chief/designee shall route the information directly to the Patrol Division Captain. Based upon the information provided, the Patrol Captain shall determine the date/time/officer to be assigned.
 - ii. The ride-along shall not exceed four hours in duration, except with express permission of the Chief of Police or his/her designee.

RIDE-ALONG GUIDELINES

- 3- Officers scheduled to have a ride-along should be aware of their increased responsibility and know the limitations of their passenger. In all cases, the ride-along is solely an observer. The ride-along is there to learn and watch the Officer perform his/her duties, not perform or assist in the duties themselves, unless completely safe and non-confrontational. Ride-along participants, unless they are sworn police officers, shall not be armed with weapons of any kind.

- 4- The following guidelines apply to all ride-alongs and shall be adhered to during the ride-along:
 - a. The officer should explain beats and general procedures to the ride-along.
 - b. Questions should be encouraged and every effort should be made to answer questions in an understandable manner.
- 5- The officer should give the ride-along brief instruction in the use of the radio should the need arise that would justify his/her use of it.
 - a. The officer shall advise the Communication Center that he/she has a ride-along. This information shall include the estimated length of the ride-along and Departmental affiliation, if any, of the ride-along.
- 6- The officer should explain to the ride-along when there is potential danger and that he/she should not leave the patrol vehicle on an assignment unless the officer deems it safe to do so.
- 7- The ride-along is an observer only and every effort should be made to keep the ride-along out of a position of danger.
- 8- If asked, the ride-along shall be clearly introduced and identified.
 - (a) Police Aides and Public Safety Dispatchers participating in the ride-along program shall be attired in their regulation uniform.
 - (b) If privacy is requested by a victim or reporting party, the ride-along shall be instructed to return to the patrol vehicle or other safe location.
- 9- No ride-along participant shall be allowed in the Jail.
- 10- The officer may terminate the ride with the approval of his/her sworn supervisor if he/she deems it to be in the best interest of the Department.
 - (a) The supervisor shall document the reasons for the ride-along termination in his/her supervisor's log, insuring a copy is forwarded to the appropriate individual (i.e. Aide Coordinator in the case of a Police Aide)
- 11- At the conclusion of the ride, the officer shall insure the ride-along is safely returned back to the Tsukamoto Public Safety Building or, if requested, to the ride-along's vehicle or other convenient Berkeley location.

Roy L. Meisner
Chief of Police

Hazardous Material Response

406.1 PURPOSE AND SCOPE

Hazardous materials present a potential harm to employees resulting from their exposure. To comply with Title 8, California Code of Regulations, § 5194, the following is to be the policy of this department.

406.1.1 HAZARDOUS MATERIAL DEFINED

A hazardous material is a substance which by its nature, containment and reactivity, has the capability of inflicting harm during exposure; characterized as being toxic, corrosive, flammable, reactive, an irritant or strong sensitizer and thereby posing a threat to health when improperly managed.

406.2 HAZARDOUS MATERIAL RESPONSE

Employees may encounter situations involving suspected hazardous materials, such as at the scene of a traffic accident, chemical spill or fire. When employees come into contact with a suspected hazardous material, certain steps should be taken to protect themselves and citizens.

~~Management of a hazardous material scene involving a response from two or more agencies shall be managed via unified command.~~

The following steps should be considered at any scene involving suspected hazardous materials:

- (a) Attempt to identify the type of hazardous substance. (Identification can be determined by placard, driver's manifest or statements from the person transporting).
- (b) Notify the Fire Department.
- (c) Provide first-aid for injured parties if it can be done safely and without contamination.
- (d) Begin evacuation of the immediate area and surrounding areas, depending on the substance. Voluntary evacuation should be considered; however, depending on the substance, mandatory evacuation may be necessary.
- (e) Notify the local health authority. Such notification is mandatory when a spilled or released item is a pesticide (Health and Safety Code § 105215).
- (f) Notify the Department of Toxic Substances Control. This is mandatory when an officer comes in contact with, or is aware of, the presence of a suspected hazardous substance at a site where an illegal controlled substance is or was manufactured (Health and Safety § 25354.5).

406.3 REPORTING EXPOSURE(S)

Department personnel who believe that they have been exposed to a hazardous material shall immediately report the exposure to a supervisor. Each exposure shall be documented by the employee in an Injury Report employee memorandum and that shall be forwarded via chain of command to the Commanding Officer to their supervisor. ~~Should the affected employee be unable to document the exposure for any reason, it shall be the responsibility of the notified supervisor to complete the memorandum.~~

Injury or illness caused or believed to be caused from exposure to hazardous materials shall be reported the same as any other on-duty injury or illness in addition to a crime report or incident report.

406.3.1 SUPERVISOR RESPONSIBILITY

When a supervisor has been informed that an employee has been exposed to a hazardous material, he/she shall ensure that immediate medical treatment is obtained and appropriate action is taken to lessen the exposure.

To ensure the safety of employees, safety equipment is available through supervisory personnel. Safety items not maintained by the Department will be obtained through the Fire Department.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: November 19, 2004

GENERAL ORDER T-16

SUBJECT: MOTOR VEHICLE ACCIDENT INVESTIGATIONS, REPORTS, ARRESTS AND PROCEDURES

PURPOSE

- 1 - The purpose of this General Order is to establish procedures and guidelines for the investigation of traffic accidents and traffic related incidents, along with the preparation and handling of related reports.

POLICY

- 2 - It is the policy of this Department that all accidents involving fatal or other injuries, hit-run, and named property damage only collisions will be fully investigated to determine the causative factors and responsibility for the accident. Documentation shall conform to State and Department reporting requirements.

GENERAL

- 3 - The Department is governed in the classification of motor vehicle accidents by the Statewide Integrated Traffic Records System COLLISION INVESTIGATION MANUAL, California Highway Patrol document HPM 110.5, which is in accordance with the manual on classification of Motor Vehicle Traffic Accidents published by the National Safety Council.
- 4 - Traffic accident investigations shall be conducted with the objective of prosecution of violation(s) that caused the accident. Traffic accident investigative reports shall clearly define the violation(s) and contain all information necessary for a successful prosecution.

A Notice to Appear should be issued by the investigating officer at the conclusion of the investigation, when appropriate and possible, and the investigating officer has completed a course or courses of instruction in collision investigation in compliance with CVC 40600(a).

- (a) The completed investigative report may be viewed, or a copy purchased, at the Support Services Records Unit public counter after approximately ten (10) working days or less.
- 5 - All documents prepared during the course of the investigation shall be delivered to the appropriate team tray for review by a team supervisor. After review, the supervisor shall initial the report and place it in the Report Review Transfer Box.
 - (a) Prior to placing reports in the team tray, the officer shall make copies of the report and route them as follows:
 - (1) Copy to the assigned officer.
 - (2) District Attorney's office when an arrest is made, or a warrant of arrest is requested.
 - (3) Youth Services Detail when a juvenile is arrested or cited.
 - (b) All reports involving police vehicle collisions, including the City of Berkeley Accident Report, form 278-236 (City Manager's Report), and other City vehicle collision reports shall be placed in the Report Review Transfer Box for routing. The Traffic Analyst will later review and route any additional copies of these reports.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: November 19, 2004

GENERAL ORDER T-16

- (c) The Supervisor's Avoidability Report shall be turned into the Patrol Lieutenant's box prior to the end of the shift, with a copy routed to the Traffic Bureau.
- 6 - The assigned Traffic employee shall empty the Traffic Bureau accident tray when reporting for duty. After review by the Traffic Analyst, a copy of each report shall be placed in the Traffic Office Specialist II's in-tray for entry into the Records Management System.
 - (a) The original report shall be taken to the Support Services Bureau Records Unit where it will be made available for viewing or purchase of copies as set forth in General Order T-17.
 - (1) The Traffic Analyst shall make and route one copy of each qualifying accident report to the California Highway Patrol (CHP) Data Processing Unit.

EASTSHORE FREEWAY (I-80) JURISDICTION

- 7 - The California Highway Patrol has responsibility for investigating traffic accidents originating on the Eastshore Freeway (I-80), including the on and off ramps within the City of Berkeley. However, upon request by the CHP, we will render any assistance required, including a complete investigation of an accident and subsequent prosecution of violation(s) causing the accident.
- 8 - The University Avenue overpass and the Gilman Street underpass are not a part of the Eastshore Freeway (I-80) and jurisdiction remains with the Berkeley Police Department.

SCHOOL BUS TRAFFIC ACCIDENTS

- 9 - The investigation of traffic accidents involving a school bus, as defined in Section 545 VC, or a school pupil activity bus, as defined in Section 546 VC, or a youth bus, as defined in Section 680 VC, taking place anywhere within the State, are the responsibility of the CHP when the vehicle is:
 - (a) Transporting any school pupils at or below the 12th grade level to or from a public or private school, or to or from public or private school activities.
 - (b) Transporting any school pupils at or below the 12th grade level to or from a public or private school activity, or to or from a residential school.
 - (c) Transporting children at or below the 12th grade level to or from an organized non-school related youth activity and the departing/arrival school is within 25 miles of the activity location.

Traffic accidents involving a school bus, school pupil activity bus, or youth bus, but with no pupils or qualifying children aboard, remain the responsibility of the local law enforcement agency and not the CHP.

FATAL ACCIDENT INVESTIGATION TEAM

- 10 - A Fatal Accident Investigative Team (F.A.I.T.) has been established within the Department. The Team is comprised of the following three units:
 - (a) Traffic Unit:
 - (1) Sworn personnel who have received training in both basic and advanced

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traffic accident investigations, accident reconstruction and skid mark analysis.

(i) Officers who wish to be designated as F.A.I.T. traffic members are selected in accordance with existing procedures governing Special/Temporary Duty Assignments (General Order P-15). It is not necessary for those selected to be assigned to the Traffic Bureau.

FAIT supervisory staff will periodically assess all F.A.I.T. traffic members to insure they remain qualified for this assignment.

(b) F.A.I.T. Traffic members are volunteers whom, when available, will respond to qualifying collisions on a 24-hour basis.

(2) Assigned Traffic Unit personnel have the primary responsibility for conducting all traffic related investigations and follow-ups. This includes insuring all traffic reports and required follow-ups are completed in a timely manner, consistent with existing Departmental Procedures.

(3) The Traffic Bureau Sergeant, or his/her designee, is responsible for the supervision of all F.A.I.T. traffic investigators.

b) Investigative Unit:

(1) This Unit is comprised of the Detective Bureau/Homicide Detail. It is supervised by the Homicide Detail Detective Sergeant or his/her designee.

(2) This Unit provides guidance and/or assistance to the Traffic Unit relative to investigative procedures (i.e., interviews and interrogations of victims/witnesses/suspects, search warrants, etc.)

(3) This Unit has the primary responsibility for conducting any criminal investigation that might arise from the initial incident (i.e., felony hit and run, assault via vehicle, vehicular manslaughter, etc.) This includes insuring all initial Investigative and follow-up reports are completed in a timely manner, consistent with existing

c) Identification Technician/Crime Scene Unit:

(1) This Unit is comprised of the Support Services Bureau Crime Scene Unit that is staffed by a Senior Crime Scene Technician, Identification Technicians (Community Service Officers), and is supervised by the Crime Scene Supervisor or his/her designee.

(2) The primary responsibility of this Unit is to provide assistance in processing the collision and/or crime scene. The Unit also provides assistance in insuring all critical evidence is identified and collected (i.e., clothing, vehicle parts, photographs, etc.)

11 - The Communications Center shall maintain a call-out list of F.A.I.T. personnel.

a) In the event it is necessary to activate F.A.I.T., on duty F.A.I.T. personnel shall first be assigned to respond. The following notifications shall also be made when the F.A.I.T. is activated:

(1) Traffic Bureau Sergeant, and

(2) Homicide Detail Detective Sergeant, and

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- (3) **Crime Scene Unit Supervisor**
- 12 - The purpose of F.A.I.T. is to provide a collective of well-trained sworn and non-sworn personnel working in partnership to insure the proper investigation and management of the following type of collisions:
- a) Fatality involved
 - b) Impending fatality involved
 - c) Any collision involving a Berkeley Police vehicle with serious injuries, impending fatality and/or fatality shall be investigated by the CHP.
 - (1) Members of F.A.I.T. shall assist CHP as needed.
 - d) Any collision involving a Berkeley Police vehicle with major damage to any involved party.
 - (1) The determination of whether to request F.A.I.T. to respond is made at the discretion of the Patrol Watch Commander or Sergeant who responds to the scene of the collision. Based on the circumstances, the Watch Commander or assigned Sergeant may also request that CHP investigate the collision. Members of F.A.I.T. shall assist CHP as needed.
NOTE: If the collision only involves property/vehicle damage, then it is not necessary to contact the Investigative Unit (Homicide Detail).
- 13 - For all other injury collisions where an ambulance is required, it is mandatory that a Sergeant be assigned to respond to the scene. The Sergeant shall assess whether or not the F.A.I.T. should be activated. Example of factors to consider include, but are not limited to the following:
- a) Is the injury potentially life threatening? (i.e., elderly victim)
 - b) Was the victim taken to a trauma center?
 - c) Is the victim in critical condition?
- 14 - While Team members are responding, the following steps shall be taken:
- a) The first officers arriving shall render whatever aid is necessary, keeping in mind that position of bodies; clothing and other personal items could be critical evidence.
 - b) Block off the area and freeze/seal the scene.
 - c) Determine which persons are involved in the accident and record their positions in the vehicles, etc.
 - d) Unless removed from the scene for medical treatment, isolate the involved persons and obtain initial statements.
 - e) Identify witnesses and obtain initial statements.
 - f) The assigned patrol officer shall be responsible for the investigation and scene management until relieved by a Team member.
 - (1) Once at the scene, the assigned Team member shall be in charge of the scene unless relieved by a commanding officer.

INVESTIGATION OF INJURY AND FATAL MOTOR VEHICLE ACCIDENTS

- 15 - Every motor vehicle accident which results in injury or death to any person, including those occurring on private property, shall be thoroughly investigated.

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- a) Injury is defined as any non-fatal bodily harm received from a motor vehicle accident. Injury includes:
- (1) Bleeding wound, distorted member or any condition that requires the victim to be carried from the scene of the accident.
 - (2) Other visible injuries such as bruises, abrasions, swelling, limping, or other painful movement.
 - (3) Complaint of pain without visible signs of injury or momentary unconsciousness.
- 16 - Communications Center personnel receiving a report of an injury accident shall obtain information regarding the location, type and severity of injuries, traffic blockage, and any other information required for immediate emergency vehicle response.
- a) An investigating officer shall be immediately assigned. Other officers may be assigned to assist, as deemed necessary.
- 17 - The first on-scene officer shall determine the number and extent of injuries, need for immediate response from other service providers (i.e., fire suppression, other City Departments, EBMUD, PG&E, hazardous material involvement, etc.). When necessary, emergency medical aid shall be provided until relieved by medical personnel.
- a) The officer shall inform the Communications Center of the need for additional assistance, including requesting that F.A.I.T. be activated.
- 18 - Injury and fatal traffic accident investigations shall be recorded on CHP Forms 555 (Traffic Collision Report and Factual Diagram), 556 (Narrative/Supplemental), and 555 page 3 (injured, witness, passenger).
- a) The report may be neatly printed, typed or computer generated.
- 19 - The narrative report shall include the following information in the sequence listed:
- FACTS:** List known physical facts: skid marks, location and type of vehicles/vehicle debris/paint transfer, roadway construction/width/lanes, type and location of traffic control signals/signs, description of injuries to persons and damages to property, etc. Also indicate your response location, method used to get measurements, any mechanical defects found and how discovered and verified, and any hazardous materials.
- STATEMENTS:** Verbal statements should be recorded as nearly verbatim as possible. Written statements may be signed or unsigned and should be recorded exactly as stated. When practical, written statements should be recorded on a BPD statement form.
- OPINIONS AND CONCLUSIONS:** The Point of Impact is a conclusion drawn from facts and statements. The determination of causative factors is an opinion/conclusion of the investigator and is recorded in this section. (Do not include opinions or conclusions under FACTS).
- DISPOSITION:** Include the fact of arrest and charge(s) if a person is taken into custody. If a Notice to Appear is issued, include the citation number(s), violation(s) charged, court date and person cited. Record the disposition of vehicles (released to owner at scene, towing information, etc.), including release authority if impounded.

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INVESTIGATION OF NON-INJURY MOTOR VEHICLE ACCIDENTS

- 20 - Reports of non-injury accidents occurring on private property will not be accepted by Communications Center personnel unless the accident involves:
- A hit-run (hit-run is the failure or refusal to provide both drivers license and registration information to the other party).
 - City owned or leased vehicles, equipment or property, unless only city property is involved and in the opinion of a supervisor there is no need for a collision report. (Police auto vs. parked police auto in the Hall of Justice lot.)
 - A driver who may be under the influence of alcohol or drugs.
 - A disturbance of the peace.
- 21 - Reports of non-injury accidents occurring on a highway shall be documented as a collision report in conformance with the CHP Collision Investigation Manual.
- 22 - An officer shall be dispatched to the scene of qualifying reports.
- In the event an officer cannot be assigned within a period of fifteen minutes, due to lack of available personnel, the reporting party shall be so informed, together with the probable delay before an officer will be available.
 - If the principals in the collision refuse to wait for the officer, no traffic congestion problem exists and, if the principals have been informed of their responsibility to exchange information, the report may be disregarded. Every reasonable effort should be made to dispatch an officer to the scene and to document the collision.
 - If one of the principals to the collision is still present at the scene and that person has the required identifying information on the other involved party, a collision report shall be completed. In no event shall an officer render an opinion as to cause or any violation of the California Vehicle Code unless all involved parties have been interviewed.
- 23 - CHP Form 555-03, Traffic Collision Report -Property Damage Only ("PDO," or also referred to as the "short form") shall be handwritten at the scene of the accident and a copy issued to each involved party.
- When more than two parties are involved, the "short form" cannot be used.
 - "Short form" cannot be used if any City vehicle, property, or liability is involved.
 - The copy provided at the scene will contain names and other identifying data concerning involved parties, vehicles and witnesses. It will not contain the narrative portion of the report.
 - The complete report may be viewed by concerned persons at the Support Service Records Unit and copies can be obtained for a fee.

HIT-RUN INVESTIGATIONS AND ARREST PROCEDURES

- 24 - Any driver of a motor vehicle, who becomes involved in a motor vehicle accident, must stop and identify them self in compliance with Section 20002 VC.
- 25 - If an arrest is made as a result of a motor vehicle accident, in addition to the CHP 555 form, the front of an Universal report form shall also be completed under the same case number as the accident investigation.
- The report shall bear the classification of the offense for which the defendant was arrested.
 - The investigating officer shall complete the narrative report; ensuring sufficient

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details are included to support the arrest.

- 26 - An officer shall conduct an investigation of misdemeanor hit-run accidents, whether on roadways or on private property.
 - a) CHP Form 555 shall be used if the responsible party is known or if there are investigative leads.
 - b) CHP Form 555-03 (PDO) should be used if no leads are present.
- 27 - The follow-up investigation for both felony and misdemeanor hit and run cases will be conducted by the assigned patrol officer, unless the investigation was handled by a F.A.I.T. member who will then be responsible for the follow-up. Investigations shall be complete and accurate.

DELAYED REPORTS OF MOTOR VEHICLE ACCIDENTS

- 28 - When an injury accident is reported within 24 hours of the time of the accident, a numbered report shall be initiated and the investigation assigned to a Front Counter Officer.
 - a) A patrol officer shall be assigned when a Front Counter Officer is unavailable.
 - b) A delayed report meeting the above criteria shall have the special conditions box on the front of the CHP 555 form labeled, "Late-Reported".
- 29 - A numbered report shall be made if a letter is received, reporting an injury collision more than 24 hours after the occurrence.
 - a) CHP Form 555 and DMV form SR-1 shall be sent to the reporting party.
 - (1) The reporting party shall be instructed by letter to complete CHP Form 555 and return it to the Berkeley Police Department for recording and permanent record processing (i.e., microfilming, optical disc storage).
 - (2) The reporting party shall also be informed that the Berkeley Police Department will not forward the information to the California Highway Patrol and that no further action will be taken. The reporting party shall be informed that they are responsible for reporting the collision to the Department of Motor Vehicles on the appropriate form (SR-1).
 - (3) The completed CHP 555 form shall be assigned to the Front Counter Officer who will enter the information, "Counter Report" in the special conditions box.
- 30 - A numbered report may be made if an injury collision is reported in person more than 24 hours after the time of the collision, in which case the reporting party will be afforded the opportunity to fill out in their own handwriting Traffic Collision Report Form 555.
 - a) The Front Counter Officer shall be assigned and shall assist the person completing the form and advise them that the report will not be forwarded to the California Highway Patrol and that no further action will be taken. A patrol officer shall be assigned if the Front Counter Officer is not available.
 - b) The reporting party shall be informed that they are responsible for reporting the collision to the Department of Motor Vehicles on the appropriate form (SR-1) which will be provided at the Front Counter.
- 31 - If a non-injury collision is reported by letter, the reporting party will be advised, via form letter, that no investigative action will be taken.
- 32 - If a non-injury collision is reported in person after both principals and vehicles have left

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the scene, the person shall be advised that no report will be taken.

SCENE MANAGEMENT

- 33 - The first officer to arrive at the scene of an accident shall assume the responsibilities of the Scene Manager until relieved by the assigned officer, or other competent authority.
- 34 - Scene management includes, but is not limited to:
- a) Administering emergency medical care and providing basic life support.
 - b) Summoning ambulance and/or additional assistance (e.g., officers, specialized personnel whether from City departments or other agencies, tow trucks, etc.).
 - c) Protecting the accident scene.
 - (1) Use of flares, traffic cones, barricades.
 - (2) Enlisting assistance from on-lookers to direct or divert traffic, etc.
 - d) Preserving short-lived evidence.
 - e) Establishing a safe traffic pattern around the scene.
 - f) Locating witnesses and recording accident information.
 - g) Expediting the removal from the roadway of vehicles, persons, and debris, when the removal will not interfere with the investigation.
 - h) Protecting citizens' personal property from theft or loss.
 - (1) When it is not practical for personal property to accompany the citizen and the owner does not authorize other disposition, the property shall be taken into safekeeping and placed in the Property Room under the accident case number. The disposition of any property taken into police custody shall be documented in the report.

HAZARDOUS MATERIALS INVOLVEMENT

- 35 - The Berkeley Fire Department is responsible for the scene management of any hazardous or toxic materials spill. Pending the arrival of Fire Department personnel, Police personnel will be required to take any required emergency action.
- 36 - The following procedures are recommended to assist in the handling of hazardous or toxic materials spill, or the immediate potential of a spill:
- a) Report the incident as a possible hazardous materials accident, giving the exact location and request assistance.
 - b) Stay upwind and updrift.
 - c) Isolate the area of non-essential personnel.
 - d) Avoid contact with liquid or fumes.
 - e) Eliminate ignition sources (smoking, flares, combustible engines).
 - f) Identify materials, when possible, without undue risk of exposure/contact.
 - g) Initiate evacuation from downwind first.
 - (1) Select an upwind site for assembly of evacuated persons and report the location of the site to the Communications Center.

ACCIDENTS INVOLVING DISABLED PEDESTRIANS

- 37 - When an officer investigates a traffic collision that involves a pedestrian who does either of the following, they are to write "DP" in the special conditions box in the upper left corner of the CHP 555 form.
- (a) When the pedestrian was using a mobility device, such as a wheelchair, walker, crutches, cane, white cane, or other device.

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- (b) When the pedestrian "self identifies" as having a disability that impairs mobility.
- 38 - In the narrative portion of the report, the officer shall describe the mobility device that the pedestrian used, or the statement that the person made when he/she "self identified" as being disabled.
- 39 - This procedure does not require an officer to ask any disability related questions of the pedestrian or to do anything that would violate the American with Disabilities Act (ADA). It does not ask that an officer attempt to determine whether the pedestrian was using the mobility device as the result of a temporary medical condition (such as a broken leg), or as the result of a disability as described in the ADA.
- 40 - The Traffic Analyst will maintain a file of all collision reports that are identified as involving a disabled pedestrian.
-

References:

California Collision Investigation Manual HPM 110.5

California Vehicle Code Sections 545, 546, 680, 12028 (a), 12028 (b), and 40600

General Orders C-2, C-16, C-17, D-2, E-3, P-12, and T-17

Watch Commanders

423.1 PURPOSE AND SCOPE

Each patrol shift must be directed by supervisors who are capable of making decisions and communicating in a manner consistent with departmental policies, procedures, practices, functions and objectives. To accomplish this goal, a Lieutenant heads each watch.

423.2 DESIGNATION AS ACTING WATCH COMMANDER

When a Lieutenant is unavailable for duty as Watch Commander, in most instances the senior qualified sergeant shall be designated as acting Watch Commander. This policy does not preclude designating a less senior sergeant as an acting Watch Commander when operational needs require or training permits.

Civil Disputes

431.1 PURPOSE AND SCOPE

This policy provides members of the Berkeley Police Department with guidance for addressing conflicts between persons when no criminal investigation or enforcement action is warranted (e.g., civil matters), with the goal of minimizing any potential for violence or criminal acts.

The Domestic Violence Policy will address specific legal mandates related to domestic violence court orders. References in this policy to "court orders" apply to any order of a court that does not require arrest or enforcement by the terms of the order or by California law.

431.2 POLICY

The Berkeley Police Department recognizes that a law enforcement presence at a civil dispute can play an important role in the peace and safety of the community. Subject to available resources, members of this department will assist at the scene of civil disputes with the primary goal of safeguarding persons and property, preventing criminal activity and maintaining the peace. When handling civil disputes, members will remain impartial, maintain a calm presence, give consideration to all sides and refrain from giving legal or inappropriate advice.

431.3 GENERAL CONSIDERATIONS

When appropriate, members handling a civil dispute should encourage the involved parties to seek the assistance of resolution services or take the matter to the civil courts. Members must not become personally involved in disputes and shall at all times remain impartial.

While not intended to be an exhaustive list, members should give considerations to the following when handling civil disputes:

- (a) Civil disputes tend to be confrontational and members should be alert that they can escalate to violence very quickly. De-escalation techniques should be used when appropriate.
- (b) Members should not dismiss alleged or observed criminal violations as a civil matter and should initiate the appropriate investigation and report when criminal activity is apparent.
- (c) Members shall not provide legal advice, however, when appropriate, members should inform the parties when they are at risk of violating criminal laws.
- (d) Members are reminded that they shall not enter a residence or other non-public location without legal authority including valid consent.
- (e) Members should not take an unreasonable amount of time assisting in these matters and generally should contact a supervisor if it appears that peacekeeping efforts longer than 30 minutes are warranted.

431.4 COURT ORDERS

Disputes involving court orders can be complex. Where no mandate exists for an officer to make an

arrest for a violation of a court order, the matter should be addressed by documenting any apparent court order violation in a report. If there appears to be a more immediate need for enforcement action, the investigating officer should consult a supervisor prior to making any arrest.

If a person appears to be violating the terms of a court order but is disputing the validity of the order or its applicability, the investigating officer should document the following:

- (a) The person's knowledge of the court order or whether proof of service exists.
- (b) Any specific reason or rationale the involved person offers for not complying with the terms of the order.

A copy of the court order should be attached to the report when available. The report should be forwarded to the appropriate prosecutor. The report should also be forwarded to the court issuing the order with a notice that the report was also forwarded to the prosecutor for review.

432.4.1 STANDBY REQUESTS

Officer responding to a call for standby assistance to retrieve property should meet the person requesting assistance at a neutral location to discuss the process. The person should be advised that items that are disputed will not be allowed to be removed. The member may advise the person to seek private legal advice as to the distribution of disputed property.

Members should accompany the person to the location of the property. Members should ask if the other party will allow removal of the property or whether the other party would remove the property.

If the other party is uncooperative, the person requesting standby assistance should be instructed to seek private legal advice and obtain a court order to obtain the items. Officers should not order the other party to allow entry or the removal of any items. If there is a restraining or similar order against the person requesting standby assistance, that person should be asked to leave the scene or they may be subject to arrest for violation of the order.

If the other party is not present at the location, the member will not allow entry into the location or the removal of property from the location.

432.5 VEHICLES AND PERSONAL PROPERTY

Officers may be faced with disputes regarding possession or ownership of vehicles or other personal property. Officers may review documents provided by parties or available databases (e.g., vehicle registration), but should be aware that legal possession of vehicles or personal property can be complex. Generally, officers should not take any enforcement action unless a crime is apparent. The people and the vehicle or personal property involved should be identified and the incident documented.

432.6 REAL PROPERTY

Disputes over possession or occupancy of real property (e.g., land, homes, apartments) should generally be handled through a person seeking a court order.

Departmental Forms

208.1 PURPOSE AND SCOPE

Agency Content

The purpose of this policy is to delineate proper procedures to follow when creating a new form or revising a currently used form.

208.2 POLICY

Agency Content

All departmental forms, including revisions, shall be approved by the Chief of Police.

208.3 NEW AND REVISED FORMS

Agency Content

New and revised forms shall be submitted to the Support Services Division Captain along with a short statement explaining the intended use and need for the form. The Captain shall review the form and forward it to the Chief of Police with recommendations. If approved, the Captain shall arrange for reproduction of the form. If rejected, the Captain shall return the form to the originator.

208.4 RECORDS

Agency Content

The Support Services Division Captain shall maintain a file of approved forms.

208.5 SPECIAL FORMS

Agency Content

This policy shall not apply to special forms designed for a project of temporary duration, provided the form is not to be used outside of the Department and that its use ceases with completion of the project.

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DATE ISSUED: January 13, 1994

GENERAL ORDER R-18

SUBJECT: FORMS, FORM LETTERS AND WANTED CIRCULARS

PURPOSE

- 1 - The purpose of this Order is to delineate proper procedures to follow when creating a new form, posting wanted fliers, sending out form letters, or revising a currently used form.

POLICY

- 2 - All Departmental forms and form letters, including revisions, except those mentioned in Paragraph 7 below, shall be approved by the Chief of Police.

PROCEDURES

- 3 - New forms shall be submitted to the Captain of the Support Services Division along with a short statement explaining the intended use and need for the form.
 - (a) The Support Services Division Captain shall review the form and forward it to the Chief of Police with recommendations.
- 4 - The Chief of Police shall indicate approval or disapproval of the form and return it to the Captain of the Support Services Division.
 - (a) The Support Services Division Captain shall arrange for reproduction of the form if approved, or return the form to the originator if disapproved.
- 5 - Revisions of existing forms shall be forwarded by the Captain of the Support Services Division to the Chief of Police, together with a short statement as to the necessity for revision.
 - (a) Upon approval, they shall be returned to the Captain of the Support Services Division.
- 6 - The Captain of the Support Services Division shall maintain a file of approved forms.
- 7 - This Order shall not apply to special forms designed for a project of temporary duration, provided the form is not to be used outside of this Department and that its use ceases with completion of the project.
- 8 - This Order shall apply to all wanted circulars for distribution outside of the Department, except fingerprint circulars and wanted bulletins, which shall be approved as to form, content and extent of distribution by the Captain of the Support Services Division.

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DATE ISSUED: January 13, 1994

GENERAL ORDER R-18

Reference: CALEA Standards

Chaplaincy Program

338.1 PURPOSE AND SCOPE

It is the policy of the Berkeley Police Department to implement a vibrant, interfaith chaplaincy program to support the men and women of the Berkeley Police Department, the employees of the City of Berkeley, and the Berkeley community. In addition, the program will help establish a strong link between the police department and the faith-based community.

338.2 POLICY

The chaplain's purpose is to render, on request, spiritual, practical and social guidance and comfort to members of the Berkeley Police Department and its ancillary support agencies. Chaplains shall also provide such services to the citizens of Berkeley at large.

338.3 DEFINITIONS

Police Chaplain: A volunteer who is an ordained/lay/spiritual leader from the community and a member in good standing of a recognized religious denomination or group. The police chaplain is not a law enforcement officer.

Program Manager: A sworn member of the Berkeley Police Department responsible for the overall management of the Chaplaincy Program. The Chief of Police will assign the Program Manager. The Program Manager will report directly to the Personnel and Training Bureau Lieutenant.

338.4 PARTICIPATION IN THE PROGRAM

Police chaplains will be chosen based on the following criteria:

- (a) High standards with regard to moral and ethical character.
- (b) Skill in ministry and pastoral care.
- (c) Commitment to the policies, regulations and mission of the Berkeley Police Department and goodwill towards the citizens of Berkeley.
- (d) In good standing as an ordained/lay/spiritual leader in a recognized religious denomination or group.
- (e) Obtained written approval of the pastor or governing body of their particular denomination or group to become a Police Chaplain.
- (f) Approved and appointed to the Police Chaplaincy Program by the Chief of Police.

338.5 POLICE CHAPLAINCY STRUCTURE

The Police Chaplaincy Program will be governed by the Chief of Police, and administered through the Professional Standards Division and the designated Program Manager. Assistant Chaplaincy Program Manager(s) may also be appointed.

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Chaplaincy Program

338.6 DUTIES OF THE PROGRAM MANAGER

The Program Manager's duties include, but are not limited to:

- (a) Arranging training, overseeing equipment, ensuring scheduling, providing an avenue for problem/conflict resolution, and developing policy and procedures for the program under the guidance and supervision of the Berkeley Police Department administration.
- (b) Considering complaints or problems associated with the program and assisting the Chief of Police in any decision to terminate the services of a chaplain who abuses privileges or fails in his/her responsibilities.
- (c) Maintaining all files related to the program.
- (d) Serving as a planner and consultant to the Personnel and Training Bureau Lieutenant and the Professional Standards Division Captain by providing recommendations to the Chief of Police regarding the appointment, background investigation and recruitment of prospective chaplains.
- (e) Evaluating the performance of all assigned chaplains on an annual basis and maintaining those evaluation records.

338.7 DUTIES OF POLICE CHAPLAINS

The Berkeley Police Department's Chaplaincy Program is designed to respond to the needs of Berkeley Police Department personnel and their families. It is also designed to respond to the needs of all others in our community.

Typical duties of a police chaplain include:

- (a) Providing spiritual or pastoral counseling or aid requested by Department employees, their families, or a member of the community.
- (b) Responding when incidents of on-duty injuries or death occur.
- (c) Visiting sick or injured employees, or family members, at their home or hospital when requested.
- (d) Participating in funeral or memorial services for active or retired employees. Assist family members in preparation of funeral arrangements.
- (e) Providing comfort, aid and assistance in the field for Berkeley Police Department personnel.
- (f) Assisting Department officials in providing death or serious injury notifications.
- (g) Responding to and assisting victims of major accidents, both at the scene and at the hospital.
- (h) When requested, participating in Department promotion functions, award ceremonies, dinners and social events.
- (i) Attending assigned training and program meetings.
- (j) Becoming familiar with, and adhering to, the applicable policies and procedures of the Berkeley Police Department.

Chaplaincy Program

- (k) Working under the direction and assistance of the personnel administering the Police Chaplain Program.
- (l) Maintaining high credibility within the program with regard to honesty and confidentiality.
- (m) Complying with the orders and instructions of the officer-in-charge of any department function.
- (n) Conversing with department employees when the need for ministerial services is requested or is apparent provided such communication does not interfere with department operations. Police chaplains are authorized to visit department facilities and incident scenes where activities indicate a need for ministerial services.
- (o) Not verbalizing, while functioning as Berkeley Police Department Chaplains, any theology or doctrines particular to any individual group or denomination unless requested.
- (p) Providing assistance, upon request, to the Peer Support / Critical Incident Stress Management Team.

338.8 CALL-OUT SITUATIONS

The following are examples of situations where a Police Chaplain call-out may be appropriate:

- (a) Officer injury/death/accident
- (b) Death notifications
- (c) SIDS death
- (d) Suicides
- (e) Homicides
- (f) Major disasters - natural or accidental
- (g) Major injury vehicle collisions
- (h) Death scenes
- (i) Major structure fires
- (j) Any other situation deemed appropriate by the Watch Commander or on-duty supervisor

338.9 CALL-OUTS

338.9.1 POLICE PROCEDURES

When an officer or supervisor determines a police chaplain is necessary, they shall contact Dispatch, request a call-out, and advise the following:

- (a) Where the chaplain is needed, giving a specific location as to where the chaplain should respond, and
- (b) A contact name and phone number for the chaplain to use upon his/her arrival.

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338.9.2 POLICE CHAPLAIN PROCEDURES

Police chaplains shall, upon a call-out notification from Dispatch, shall do the following:

- (a) Obtain information regarding the call location, circumstances and contact person.
- (b) Advise Dispatch by radio/telephone of their ETA, when they arrive on scene, any changes of location, etc.
- (c) Upon arrival, contact the person, officer or supervisor as indicated by Dispatch.
- (d) Assess the need for additional police chaplains, and if needed, call them directly.

338.10 DOCUMENTATION

After a call-out, the assigned chaplain shall provide the Program Manager with the following documented information:

- (a) A summary of the call, covering the basics of who, what, when, where, why and how.
- (b) A description of any problems associated with the call-out.

338.11 UNIFORMS

All chaplain uniform items will be approved by the Chief of Police. The police chaplain's uniform is outlined in the chaplain's uniform letter. All chaplain uniforms shall be maintained in good repair and worn in neat and clean fashion.

338.12 IDENTIFICATION

A BPD identification card shall be issued to each chaplain and shall be worn as identification when they are not in uniform and are performing chaplain duties. The identification card is the property of the Berkeley Police Department and is to be surrendered at the time of separation from the program. Loss of the identification card is to be reported to the on-duty shift supervisor or Program Manager immediately.

338.13 COMPLAINTS

All complaints about police chaplains shall be brought to the attention of the Program Manager and shall be forwarded to the Chief of Police via the chain of command.

338.14 SEPARATION

Separation of police chaplains will be done at the direction of the Chief of Police and may result from the following:

- (a) Failure by the chaplain to knowingly abide by the established the International Conference of Police Chaplains' Canon of Ethics, or the Berkeley Police Department's policies, orders and procedures. The Program Manager shall keep an updated copy of all the aforementioned documents for reference.
- (b) Failure to honor and abide by the authority of an "officer-in-charge" in the field.
- (c) Failure to practice good, professional, ethical, and moral standards which may bring discredit to the program and the Berkeley Police Department.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: February 14, 2018

GENERAL ORDER C-45

SUBJECT: POLICE CHAPLAIN PROGRAM

PURPOSE

- 1 - To implement a vibrant, interfaith chaplaincy program to support the men and women of the Berkeley Police Department, the employees of the City of Berkeley and the Berkeley community.
- 2 - To establish a strong link between the police department and the faith-based community.

POLICY

- 3 - The Chaplain's purpose is to render, on request, spiritual, practical, and social guidance and comfort to members of the Berkeley Police Department and its ancillary support agencies. Chaplains shall also provide such services to the citizens of Berkeley at large.

DEFINITIONS

- 4 - Police Chaplain: The Police Chaplain is not a law enforcement officer, but a volunteer who is an ordained/lay/spiritual leader from the community and a member in good standing of a recognized religious denomination or group.
- 5 - Program Manager: A sworn member of the Berkeley Police Department responsible for the overall management of the Chaplain Program. The Chief of Police will assign the Program Manager. The Program Manager will report directly to the Personnel and Training Bureau Lieutenant.

POLICE CHAPLAINCY STRUCTURE

- 6 - The Police Chaplain Program will be governed by the Chief of Police, and administered through the Professional Standards Division and the designated Program Manager. Assistant Chaplain Coordinator(s) may also be appointed.
- 7 - Duties of the Program Manager:
 - (a) The Program Manager will arrange Police Chaplain training, oversee equipment, ensure scheduling, provide an avenue for problem/conflict resolution, and develop policy and procedures for the program under the guidance and supervision of the Berkeley Police Department administration. The Program Manager shall consider complaints or problems regarding Chaplains, and assist the Chief of Police in any

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decision to terminate the services of a Chaplain who abuses privileges or fails in his/her responsibilities as a Police Chaplain.

- (b) The Program Manager shall maintain all files related to the Program.
- (c) The Program Manger will serve as a planner and consultant to the Personnel and Training Bureau Lieutenant and the Professional Standards Division Captain providing recommendations to the Chief of Police regarding the appointment, background investigation, and recruiting of prospective Chaplains.
- (d) The Program Manager will evaluate the performance of all assigned Police Chaplains on an annual basis and be responsible for maintaining evaluation records.

8 - Call-Out Procedures for Police Chaplains

When an officer or supervisor requests a Police Chaplain call-out via Dispatch, the following directions must be given:

- (a) Where the Police Chaplain should respond, and:
- (b) Who the Police Chaplain is to contact at the location.

9 - Police Chaplains will respond to the call out in the following manner:

- (a) Contact Dispatch by telephone as soon as possible upon receiving voicemail, and obtain information regarding call location, circumstances, and contact person.
- (b) Advise Dispatch by radio/telephone when: in route to the scene, upon arrival, change of location, call completed, etc.
- (c) Upon arrival, contact the person, officer or supervisor as indicated by Dispatch.
- (d) The assigned Police Chaplain should assess the need for additional Police Chaplains. Additional Police Chaplains should be called out directly by the on scene Police Chaplain.

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10 - The assigned Police Chaplain shall ensure the call out is documented as follows:

- (a) Provide the Program Manager with a written summary of the call. The basic interrogatives of who, what, when, where, why and how should be covered in the written summary.
- (b) Problems with the call out shall be forwarded to the Program Manager.

11 - The following are examples of call out situations, but do not include all possible situations:

- (a) Officer injury/death/accident
- (b) Death notifications
- (c) SIDS death
- (d) Suicides
- (e) Homicides
- (f) Major disasters - natural or accidental
- (g) Major injury vehicle collisions
- (h) Death Scenes
- (i) Major structure fires

12 - Participation in the Program

Volunteer Police Chaplains selected for participation will be chosen via the following criteria:

- (a) Highest standards with regard to moral and ethical character.
- (b) Skilled in ministry and pastoral care.
- (c) Demonstrate a commitment to the policies, regulations, and mission of the Berkeley Police Department and goodwill towards the citizens of Berkeley.
- (d) Be an ordained/lay/spiritual leader in good standing with a recognized religious denomination or group.

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- (e) Obtain written approval of the pastor or governing body of their particular denomination or group to become a volunteer Police Chaplain.
- (f) Be approved and appointed to the Police Chaplain Program by the Chief of Police.

DUTIES

13 - The Berkeley Police Department Police Chaplain Program is assigned to respond to the needs of Berkeley Police Department personnel and their families. They also are assigned to respond to the needs of all others in our community.

14 - Typical Duties of a Police Chaplain:

- (a) Respond and provide spiritual or pastoral counseling or aid requested by Department employees, their families, or a member of the community.
- (b) Respond when incidents of on-duty injuries or death occur.
- (c) Visit sick or injured employees, or family members, at their home or hospital when requested.
- (d) Participate in funeral or memorial services for active or retired employees. Assist family members in preparation of funeral arrangements.
- (e) Provide comfort, aid, and assistance in the field for Berkeley Police Department personnel.
- (f) Assist Department officials in providing death or serious injury notifications.
- (g) Respond and assist victims of major accidents both at the scene and at the hospital.
- (h) When requested, participate in Department promotion functions, award ceremonies, dinners, and social events.
- (i) Attend assigned training and program meetings.
- (j) Become familiar with, and adhere to, the applicable policies, orders, and procedures of the Berkeley Police Department.
- (k) Work under the direction and assistance of the personnel administering the Police Chaplain Program.

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- (l) Maintain the highest possible program credibility with regard to honesty and confidentiality.
 - (m) Police Chaplains shall comply with the orders and instructions of the officer-in-charge of any department function.
 - (n) Police Chaplains are authorized to visit Department facilities and incident scenes where activities indicate a need for ministerial services. Police Chaplains may converse with department employees when the need for ministerial services is requested or is apparent provided such communication does not interfere with Department operations.
 - (o) Police Chaplains, while functioning as Berkeley Police Department Chaplains, shall not verbalize to any person theology or doctrines particular to any Individual group or denomination unless requested.
 - (p) To provide assistance, upon request, to the Critical Incident Stress Management Team.
- 15 - Uniforms shall be maintained in good repair and worn in neat and clean fashion. The Police Chaplain's uniform is outlined in the Police Chaplain's uniform letter. The Chief of Police prior to use will approve all uniform items.
- 16 - A Department identification card shall be issued to each Police Chaplain and shall be worn as identification when not in uniform when performing Chaplains' duties. The identification card is the property of the Berkeley Police Department and is to be surrendered at the time of separation from the program. Loss of the identification card is to be reported to the on-duty shift supervisor or Program Manager immediately.
- 17 - Separation of Police Chaplains:
- Separation of Police Chaplains will be done at the direction of the Chief of Police and may result from the following:
- (a) Failure by the Chaplain to knowingly abide by the established policy, orders, International Conference of Police Chaplains Canon of Ethics, and procedures of the Berkeley Police Department. The Program Manager shall keep an updated copy of all the aforementioned documents for reference.
 - (b) Failure to honor and abide by the authority of an "officer-in-charge" in the field.

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- (c) Failure to practice good professional, ethical, and moral standards bringing discredit to the program and the Berkeley Police Department.
- 18 - All complaints about Police Chaplains shall be brought to the attention of the Program Manager to be forwarded to the Chief of Police via the Professional Standards Division Chain of Command.

Honor Guard

346.1 PURPOSE AND SCOPE

The Honor Guard represents the Berkeley Police Department both within the local community and in the greater public safety community at ceremonies such as officer funerals, law enforcement memorials and promotional ceremonies. The core mission of the Honor Guard is to convey the Department's respect, empathy and condolences in a formal setting in order to assist a grieving community, but it may also be utilized to celebrate achievement, and other occasions in which a presentation of the colors is appropriate.

346.2 POLICY

The Honor Guard shall provide official Department representation at ceremonial occasions as directed by the Chief of Police or his/her designee. These occasions may include, but are not limited to: officers killed in the line of duty, officers that die during service, officers that die after retirement, out of agency services (e.g. citizen honorariums, parades, civic events, etc.), and National and State memorial services (e.g. National Law Enforcement Memorial Week, Medal of Honor/Life Saving awards ceremonies, etc.).

The Honor Guard shall aspire to the highest level of professionalism in all aspects of operation, and its members shall maintain the highest standards of professional cleanliness, bearing and integrity while performing their duties.

346.3 COMMAND STRUCTURE

346.3.1 ADMINISTRATOR

The Honor Guard Administrator will be the Professional Standards Division Captain, who will be responsible for the overall administration of the Honor Guard.

346.3.2 COMMANDER

The Honor Guard Commander will be the Personnel and Training Lieutenant, who will be responsible for planning, organizing, staffing, training, directing and coordinating all ceremonial Honor Guard functions.

346.3.3 TEAM LEADER

The Honor Guard Team Leader will hold the rank of Officer or Sergeant and will be nominated by the Honor Guard, for approval by the Honor Guard Administrator. The Team Leader will be responsible for on-site implementation and direction of an Honor Guard detail at a ceremonial function. The Team Leader may also be responsible for pre-function arrangements such as transportation, as delegated by the Honor Guard Commander. In the event the Team Leader is not available to prepare or attend an Honor Guard function, the Team Leader will appoint an Officer-In-Charge to act as the Team Leader.

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346.3.4 QUARTERMASTER

The Honor Guard Quartermaster will be appointed by the Honor Guard Commander and will be responsible for equipment and uniform acquisition and distribution, liaison with the Departmental Uniform Committee and Personnel and Training Bureau, and for the maintenance of records under his/her control.

346.3.5 LEAD TRAINER

The Honor Guard Lead Trainer will be responsible for preparing and coordinating both on-going training for the Team and the initial training of any new members.

346.3.6 JOINT RESPONSIBILITIES

The Quartermaster, Team Leader and Lead Trainer positions may be occupied by the same person if necessary.

346.4 MEMBERSHIP

The Honor Guard will consist of at least eight members, but up to as many as 12 (not including commanders), who are able to perform the ceremonial duties as required.

346.4.1 REQUIREMENTS

- (a) Applicants will have completed the police officer probationary period.
- (b) Applicants will complete the standard special assignment application process to include a review of their leave usage, performance appraisal reports, supervisor input, and a panel interview.
- (c) The applicant's ability to maintain military bearing and appearance while performing precise tasks in adverse conditions for prolonged periods of time will also be assessed.
- (d) Successful applicants will display a willingness and ability to respond to Honor Guard assignments, training and other details with minimal notice.

346.4.2 MEMBER RESPONSIBILITIES

Member responsibilities include, but are not limited to:

- (a) Maintaining all issued equipment and uniforms in excellent condition,
- (b) Returning all issued uniforms and equipment in excellent condition to the Honor Guard's Quartermaster when membership in the Honor Guard has ended, or at the conclusion of a detail,
- (c) Maintaining outstanding personal appearance,
- (d) Attending all assignments, training and other details as assigned unless providing legitimate excuse, and
- (e) Performing all duties properly.

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346.4.3 REMOVAL

Any member who fails to fulfill their obligation to the Honor Guard as identified in this policy may be removed from the unit after appropriate review by the Professional Standards Division Captain and Honor Guard Commander.

346.4.4 DEPLOYMENT

Honor Guard members designated to participate in a detail shall first be selected from available on-duty members who are working their normal shifts. In all instances where a member is participating in an Honor Guard function they shall be on-duty, whether in an overtime or straight time status.

- (a) An Honor Guard detail (consisting of two to four members) will routinely be sent to public safety funerals and memorials within the Nine County Bay Area (the nine counties which border the San Francisco Bay) as determined by the Professional Standards Division Captain.
- (b) For public safety funerals and memorials outside the Nine County Bay Area but within 200 miles of the City of Berkeley, a two member Honor Guard detail may be sent upon direction of the Professional Standards Division Captain.
- (c) For public safety funerals and memorials outside the 200 mile radius, a detail may be sent based on exceptional circumstances and only with the approval of the Chief of Police.

346.5 TRAINING

Members of the Honor Guard may be authorized six scheduled training sessions annually and additional practices as needed for a killed in the line of duty service or tragic event hosted by our department.

Members who fail to attend at least three practices or who decline three Honor Guard assignments within a calendar year may be subject to removal from the Honor Guard.

346.6 UNIFORM

Unless the privilege is rescinded by the Chief of Police, former Honor Guard members who served the Team honorably for at least five years may wear an Honor Guard shoulder/epaulet chord on their Class A uniform coat.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: November 25, 2014

GENERAL ORDER H-01

SUBJECT: HONOR GUARD

PURPOSE

- 1 - This Order sets forth policy with regard to the deployment of the Honor Guard. The Honor Guard represents the Berkeley Police Department both within the local community and in the greater public safety community at ceremonies such as officer funerals, law enforcement memorials, and promotional ceremonies. The core mission of the Honor Guard is to convey the Department's respect, empathy, and condolences in a formal setting in order to assist a grieving community, but it may also be utilized to celebrate achievement, and other celebrations in which a presentation of the colors is appropriate.

POLICY

- 2 - The Honor Guard shall provide official Department representation at ceremonial occasions as directed by the Chief of Police or his/her designee. These occasions may include, but are not limited to: officers killed in the line of duty, officers that die during service, officers that die after retirement, out of agency services (e.g. citizen honorariums, parades, civic events), and National and State memorial services (e.g. National Law Enforcement Memorial Week, Medal of Honor/Life Saving awards ceremonies, etc.)

The Honor Guard shall aspire to the highest level of professionalism in all aspects of operation, and its members shall maintain the highest standards of professional cleanliness, bearing, and integrity while performing their duties.

PROCEDURES

- 3 - Command Structure
 - (a) The Professional Standards Division Captain will be responsible for the overall administration of the Honor Guard.
 - (b) The Honor Guard Commander will hold the rank of Lieutenant, and be responsible for planning, organizing, staffing, training, directing, and coordinating all ceremonial Honor Guard functions.
 - (c) The Team Leader will hold the rank of Officer or Sergeant and will be nominated by the Honor Guard, for approval by the Honor Guard Commander. The Team Leader will be responsible for on-site implementation, and direction of an Honor Guard detail at a ceremonial function. The Team Leader may also be responsible for pre-function arrangements such as transportation as delegated by the Honor Guard Commander. In the event the Team Leader is not available to prepare or attend an Honor Guard function, the Team Leader will appoint an Officer-In-Charge to act as the Team Leader.

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- (d) The Honor Guard Quartermaster will be appointed by the Honor Guard Commander, and be responsible for equipment and uniform acquisition and distribution, liaison with Departmental Uniform Committee and Personnel and Training representative, and maintenance of records under his/her control.
- (e) The Lead Trainer will be responsible for preparing and coordinating both on-going training for the Team, and the training of any new members.
- (f) Both the Quartermaster, Team Leader, and Lead Trainer positions may be occupied by the same person if necessary.

4 - Membership

- (a) The Honor Guard will consist of at least eight members but up to as many as 12 (not including commanders) who are able to perform the ceremonial duties as required.

(b) Requirements

- a. Applicants will have completed the police officer probationary period.
- b. Applicants will complete the standard special assignment application process to include a review of their leave usage, performance appraisal reports, supervisor input, and a panel interview.
- c. Applicants' ability to maintain military bearing and appearance while performing precise tasks in adverse conditions for prolonged periods of time will also be assessed.
- d. Successful applicants will display a willingness and ability to respond to Honor Guard assignments, training and other details with minimal notice.

(c) Responsibilities

- a. Maintaining all issued equipment and uniforms in excellent condition,
- b. Returning all issued uniforms and equipment in excellent condition to the Honor Guard's Quartermaster when membership in the Honor Guard has ended, or at the conclusion of a detail,
- c. Maintaining outstanding personal appearance,
- d. Attending all assignments, training, and other details as assigned unless providing legitimate excuse,

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e. Proper performance of all duties.

(d) Removal

Any member who fails to fulfill their obligation to the Honor Guard as identified in this policy may be removed from the unit after appropriate review by the Professional Standards Division Captain and Honor Guard Commander.

5 - Deployment

- (a) Honor Guard members designated to participate in a detail shall first be selected from available on-duty members who are working their normal shifts. In all instances where a member is participating in an Honor Guard function they shall be on-duty, whether in an overtime or straight time status.
- (b) An Honor Guard detail (consisting of two to four members) will routinely be sent to public safety funerals and memorials within the Nine County Bay Area (the nine counties which border the San Francisco Bay) as determined by the Professional Standards Division Captain.
- (c) For public safety funerals and memorials outside the Nine County Bay Area but within 200 miles of the City of Berkeley, a two member Honor Guard detail may be sent upon direction of the Professional Standards Division Captain.
- (d) For public safety funerals and memorials outside the 200 mile radius, a detail may be sent based on exceptional circumstances, only with approval through the Chain of Command to the Chief of Police.

6 - Training

- (a) Members of the Honor Guard may be authorized six scheduled training sessions annually and additional practices as needed for a killed in the line of duty service or tragic event hosted by our Department.
- (b) Members who fail to attend at least three practices or who decline three Honor Guard assignments within a calendar year may be subject to removal from the Honor Guard.

7- Unless the privilege is rescinded by the Chief of Police, former Honor Guard members who served the Team honorably for at least five years may wear an Honor Guard shoulder/epaulet chord on their Class A uniform coat.

Youth Services Detail

348.1 PURPOSE AND SCOPE

The purpose of this policy is to define the role and responsibilities of the Youth Services Detail.

348.2 POLICY

The Berkeley Police Department is committed to the development and perpetuation of programs designed to investigate, mitigate and prevent juvenile delinquency. While all personnel are responsible for participating in and supporting this commitment, the Youth Services Detail is the primary unit responsible for the coordination and disposition of juvenile-related issues.

348.3 DEFINITION

As used in this policy, the terms "juvenile", "minor" and "youth" define a person under the age of 18 years old.

348.4 YOUTH SERVICES DETAIL

348.4.1 GENERAL DUTIES

The Youth Services Detail (YSD) is part of the Special Victims Unit (SVU) and is supervised by the SVU Sergeant. The SVU Sergeant reports directly to the Detective Bureau Lieutenant.

Civilian attire will normally be worn by sworn personnel assigned to the Detail and regulation uniforms will be worn by School Resource Officers while on school grounds.

Any member of the Department who wishes to engage in any community delinquency prevention program in an official capacity shall obtain the approval of the Special Victims Unit Sergeant.

YSD shall be responsible for the following general duties/activities:

- (a) Disposition of youthful offenders who have committed an offense
- (b) Maintain cooperative relationships with other agencies concerned with the instruction, training and general welfare of youth
- (c) Present or provide case information to the District Attorney's Office or the Juvenile Probation Department
- (d) Coordinate with other divisions of the Department investigating cases involving youth
- (e) Provide consultation services for all youth
- (f) Provide written reports and records of all work performed
- (g) Service of juvenile warrants

348.4.2 INVESTIGATIONS

YSD shall be responsible for the investigation of the following offenses:

- (a) Child abuse cases (i.e., neglect or physical emotional or sexual abuse)

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Youth Services Detail

1. The Youth Services Detail will investigate cases of sexual abuse when the victim is under 14 years of age
 2. The Sex Crimes Detail will investigate cases of sexual abuse when the victim is over 14 years of age
- (b) Child abandonment or familial abduction
 - (c) Crimes and non-criminal incidents occurring on a school campus where a Youth Services Detail School Resource Officer is assigned

When no YSD Detective is available, the responsibility for initial investigation shall reside with the Operations Division.

YSD is not responsible for the investigation of any criminal case, or interrogation of any person involved in offenses, not specified above, regardless of the age of the victim or responsible.

YSD Detectives will assist the handling officer in, or assume follow-up responsibility for the investigation of an offense not specified above at the direction of the SVU Sergeant, or his/her chain of command.

348.5 SCHOOL DISTRICT CONTACT

YSD will be responsible for non-emergency contacts with and notifications to schools (e.g., K-12, excluding college-level institutions).

- (a) If the need arises to make immediate contact at any Berkeley school, the officer shall first make contact with someone from the school administration (e.g., Principal, Vice-Principal, etc.) to notify them of the issue at hand and assess if they can provide support to the investigation.
- (b) YSD will be responsible for notifying a school, in writing, when an enrolled student is reported missing, and should do so within 10 days of the date of report (Education Code § 49068.6).
- (c) Requests for Berkeley Unified School District student directory information (e.g., student's name, address, phone, etc.) shall be directed to the School Resource Officer.

348.6 SCHOOL RESOURCE OFFICER

As staffing permits, the Berkeley Police Department will select officers to work with the Berkeley Unified School District as School Resource Officers (SRO's). These officers will serve as a public safety liaison between this department and the staff/students of designated schools.

Under the supervision of the SVU Sergeant, the SRO's responsibilities include:

- (a) Protect life and property
- (b) Enforce laws and local ordinances
- (c) When on-duty and present on-site, investigate all offenses reported and/or occurring at his/her assigned campus
- (d) Crime prevention and suppression

Youth Services Detail

- (e) Report preparation and related testimony
- (f) Handle all youth dispositions that come to their attention as a result of his/her on-site contacts and investigations
- (g) Act as a resource to the school with respect to delinquency prevention
- (h) Collaborate with school staff on presentations regarding law enforcement and public safety subject matters, and offer perspective and guidance on ethical issues faced by youth
- (i) Provide, within the scope of their authority and training, counsel and advice to students on an individual basis
- (j) Provide security for various school activities
- (k) Provide information and assistance to the public
- (l) Perform other tasks, as assigned

The primary duty station of an SRO will be the public school campus at which he/she is assigned.

The SRO, while present at their assigned campus, will act only in the capacity of a peace officer, and not as a school official.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: May 7, 2007

GENERAL ORDER J-18

SUBJECT: YOUTH SERVICES DETAIL, JUVENILE PROCEDURES

PURPOSE

- 1 - The purpose of this Order is to define the role and responsibilities of the Youth Services Detail, and to define the policies applicable to the investigation and disposition of juvenile status and criminal offenders.

POLICY

- 2 - The Berkeley Police Department is committed to the development and perpetuation of programs designed to investigate, mitigate, and prevent juvenile delinquency. While all personnel are responsible for participating in and supporting this commitment, the Youth Services Detail is the primary unit responsible for the coordination and disposition of juvenile-related issues.

DEFINITION

- 3 - As used in this Order, the terms "juvenile", "minor", and "youth" define a person under the age of eighteen (18) years old.

YOUTH SERVICES DETAIL

- 4 - The Youth Services Detail, a unit of the Support Services Division Detective Bureau, will be supervised by a Detective Sergeant, who shall report to the Bureau Lieutenant.
- 5 - Civilian attire will normally be worn by sworn personnel assigned to the Detail and regulation uniforms will be worn by School Resource Officers while on school grounds.
- 6 - Any member of the Department who wishes to engage in any community delinquency prevention program in an official capacity shall obtain the approval of the Youth Services Detail Detective Sergeant.
- 7 - The Youth Services Detail shall be responsible for the following general duties/activities:
 - (a) Development of police programs dealing with youth diversion, innovation and prevention.
 - (b) Disposition of youthful offenders who have committed an offense.
 - (c) Maintaining cooperative relationships with other agencies concerned with the instruction, training and general welfare of youth.
 - (d) Providing information to the Juvenile Probation Department and District Attorney's Office for presentation of cases in Juvenile Court.

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- (e) Coordination with other divisions of the Department investigating cases involving youth.
 - (f) Providing individual treatment in the disposition of youthful offenders.
 - (g) Providing for adequate consultation services for all youth.
 - (h) Providing written reports and adequate records of all work performed.
 - (i) Service of juvenile warrants.
- 8 - The Youth Services Detail is responsible for the investigation of the following offenses:
- (a) Child abuse cases (i.e., physical, physical neglect, emotional and sexual);
 - (1) The Youth Services Detail will only investigate cases of sexual abuse when the victim is under 14 years of age.
 - (b) Child abandonment or abduction;
 - (c) Crimes and non-criminal incidents occurring on a school campus where a Youth Services Detail School Resource Officer is assigned.
- 9 - When no Youth Services Detail officer is available, the responsibility for initial investigation of the offenses referenced in paragraph 8 of this Order shall reside with the Patrol Division.
- 10 - The Youth Services Detail is not responsible for the investigation of any criminal case, or interrogation of any person involved in offenses, not specified in paragraph 8, regardless of the age of the victim or responsible.
- (a) Youth Services Detail personnel will assist the handling officer in, or assume follow-up responsibility for, an investigation of an offense not specified in paragraph 8 at the direction of the Youth Services Detail Detective Sergeant, or his/her chain of command.

SCHOOL DISTRICT CONTACT

- 11 - The Youth Services Detail will be responsible for non-emergency contacts with and notifications to schools (e.g., K-12, excluding college-level institutions.)
- (a) If the need arises to make immediate contact at any Berkeley school, the officer shall first make contact with someone from the school administration (i.e., Principal, Vice-Principal, Administrative Assistant, or a Dean.) to notify them of the issue at hand and assess if they can provide support to the investigation.

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- (b) In the event the contact involves notice of a reported missing juvenile enrolled at the school, unless the notification is accomplished in writing and includes a photograph, if available (e.g., a BOLO flier), the Youth Services Detail will be responsible for written notification required in Education Code §49068.6 within ten (10) days of the date of report.
- (c) Requests for Berkeley Unified School District student directory information (e.g., student's name, address, phone, etc.) shall be directed to the Youth Services Detail, who will be responsible for obtaining the necessary information.

SCHOOL RESOURCE OFFICER (SRO)

- 12 - As staffing permits, the Berkeley Police Department will select officers to work with the Berkeley Unified School District as School Resource Officers, who will serve as a public safety liaison between this department and the staff/students of designated schools.
- 13 - Under the supervision of the Youth Services Detail Detective Sergeant, the SRO's responsibilities include: protection of life and property; enforcement of laws and local ordinances; criminal investigation; crime prevention and suppression; report preparation and related testimony; providing information and assistance to the public; and, performing other tasks, as assigned.
 - (a) The primary duty station of an SRO will be the public school campus at which he/she is assigned.
 - (b) The SRO, while present at their assigned campus, will act only in the capacity of a peace officer, and not as a school official.
- 14 - The SRO, when on-duty and present on-site, will investigate all offenses reported and/or occurring at his/her assigned campus.
- 15 - The SRO will handle all youth dispositions that come to their attention as a result of his/her on-site contacts and investigations.
 - (a) The purpose of this function should be as a resource with respect to delinquency prevention.
- 16 - The SRO will collaborate with school staff and make public presentations to students regarding law enforcement and public safety subject matter, and to offer information, perspective and guidance on ethical issues faced by youth.
 - (a) The SRO will, within the scope of authority and training, provide counsel and advice to students on an individual basis.
- 17 - The SRO will provide security for various school activities.

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STATUS OFFENDERS

- 18 - A juvenile in custody for Welfare and Institutions Code (WIC) §601, whether or not he/she is currently a ward of the Juvenile Court, is defined as a status offender.
- (a) Initially the assigned patrol officer has the responsibility of making a computer record check on the juvenile in question to determine any existing wardship with the Alameda County Juvenile Probation Department.
- (1) Should it be determined that the juvenile is a WIC §602 ward or has a §602 investigation pending, the offender may be transported to Juvenile Hall only after getting permission of the assigned probation officer.
 - (2) If the juvenile is active to probation, the offender is to be transported to Juvenile Hall only with the permission of the assigned probation officer.
 - (3) Should the juvenile be a WIC §300 detainee, he/she is to be transported as directed by Child Emergency Services.
 - (4) Should no ward or investigative status be identified, the juvenile shall be released to the appropriate crisis diversion agency.

STOPPING AND QUESTIONING (WIC §§300 or 601)

- 19 - The following shall be the criteria to be followed by Berkeley patrol officers in determining whether or not to stop and question a youth pursuant to WIC §§300 or 601:
- (a) An officer may stop and question a youth who appears to be under the age of 18 and:
- (1) Appears to be in need of emergency medical attention; or
 - (2) Answers the description of a reported runaway.

JUVENILE TRAFFIC VIOLATORS

- 20 - Every juvenile issued a traffic citation by an officer of this Department should be advised that he/she will be notified by mail as to the date, time and location when he/she is to appear.
- (a) The issuing officer shall write the juvenile's current home or parent contact telephone number in the specifically provided section on the citation.

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- 21 - The original citation issued to a juvenile operating a motor vehicle or bicycle shall be placed in the Patrol Division citation transfer box after supervisory review.
- (a) Traffic Bureau personnel shall regularly forward original citations issued to juveniles to the Superior Court Traffic Division Clerk's office.

DETENTION AND ARREST OF JUVENILES (WIC §602)

- 22 - As soon as practical, after taking custody of a juvenile, and commensurate with the age and sophistication of the juvenile, the officer shall advise the juvenile of the reason(s) for their detention and what disposition options are being considered.
- 23 - Admonition of Rights: In any case where a minor is taken into temporary custody on the grounds there is reasonable cause for believing that the minor is a person described in WIC §602, or that he/she has violated an Order of the Juvenile Court, he/she shall be immediately admonished of his/her Constitutional *Miranda* rights.
- (a) "Temporary custody," for purposes of *Miranda*, occurs at the point the minor would be considered to be under arrest (i.e., the minor's freedom of movement was restrained to the degree associated with an arrest.)
- (1) Issuance of a *Miranda* admonition is not required in investigative detentions.
- (2) Officers should objectively consider the location, nature and duration of the detention with respect to the minor's freedom of movement in determining when the detention becomes a de facto arrest.
- (b) The *Miranda* admonition should be issued as close to verbatim as possible, in language commensurate with the age and sophistication of the juvenile.
- (c) When possible, initial *Miranda* admonition should be documented on an Admonition and Waiver form (see paragraph 37(a) of this Order for waiver procedure.)
- 24 - Handcuffing: Officers shall follow the policy governing handcuffing of juveniles set forth in General Order H-6.
- 25 - Whenever a juvenile is taken into temporary custody and brought to the Public Safety Building (PSB), the accompanying officer shall immediately complete the Juvenile Log maintained in the Juvenile Booking Area.

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- (a) The assigned officer is responsible for ensuring that the Juvenile Log is completely filled out for the juvenile he/she has arrested. The responsibility for filling out the log can be delegated, however, its proper completion still rests with the handling officer.
 - (b) When a juvenile is transferred to the Probation Department, or is otherwise discharged from custody, the time of his/her release shall be indicated in the Juvenile Log by the officer responsible for the transfer/release.
- 26 - If a juvenile is being detained on one or more of the following offenses or conditions, he/she may be delivered to the Alameda County Juvenile Probation Department.
- (a) Homicide.
 - (b) Forcible rape.
 - (c) Robbery.
 - (d) Aggravated assault.
 - (e) Burglary (non-technical, recent and serious).
 - (f) Grand theft person.
 - (g) Auto theft.
 - (h) Felony narcotics offenses.
 - (i) Escape.
 - (j) Juvenile court warrant.
 - (k) Order of California Youth Authority.
 - (l) Hold for outside department.
 - (m) If further investigation of any of the above cases is necessary and the release would result in warning accomplices or destruction of evidence.
 - (n) Where there is strong evidence of runaway tendencies or serious family conditions and the welfare of the juvenile dictates holding him/her or where he/she should be taken into protective custody as specified in the Welfare and Institutions Code. (See paragraph 18 of this Order for handling procedures for status offenders.)
 - (o) Any offense when the mandatory juvenile system record check indicates that the juvenile in question is a WIC §602 ward of the Juvenile Court.

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- (p) When any provision of WIC §625.1 applies and a member of the Youth Services Detail is not available, upon authorization of a supervisor or commanding officer.

SECURE/NON-SECURE DETENTION PROCEDURES

- 27 - Minors who are taken into temporary custody for WIC §§300 or 601 cannot be held in secure detention.
 - (a) Secure detention: A minor is held in temporary custody at a law enforcement facility within a locked room or enclosure, or secured to a stationary object (e.g., handcuffed to a fixed metal rail or bench.)
 - (1) Minors under the age of 14 years old cannot be held in secure detention for any reason.
 - (b) Non-secure detention: A minor is held in temporary custody at a law enforcement facility, his/her freedom of movement is controlled by, and is under constant personal visual observation and supervision of, facility staff.
 - (1) The minor is neither locked in a room or enclosure, nor secured to a stationary object.
- 28 - In deciding to hold a minor in secure detention, the arresting officer must have reasonable belief that the minor presents a serious security risk or may harm him-/herself or others. In making that determination, the following factors may be considered:
 - (a) Age, maturity, delinquent history of the minor;
 - (b) Severity of the offense;
 - (c) Minor's behavior;
 - (d) Availability of staff to provide adequate supervision or protection of the minor; and,
 - (e) Age, type and number of other individuals detained in the facility.
- 29 - The criteria for secure detention within a locked enclosure is as follows:
 - (a) The juvenile should not be held more than six (6) hours.
 - (b) Minors shall receive adequate supervision, which requires:
 - (1) Constant auditory access to staff by the minor; and

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- (2) **Unscheduled personal observation of the minor by staff of the law enforcement agency no less than every 30 minutes.**
 - (c) **Males and females shall not be placed in the same locked room.**
- 30 - **Minors held in secure detention outside of a locked enclosure shall not be secured to a stationary object for more than 60 minutes unless no other locked enclosure is available.**
 - (a) **A department employee shall be present at all times to ensure the minor's safety while secured to a stationary object.**
 - (b) **Securing a minor to a stationary object for longer than 60 minutes, and every 30 minutes thereafter, shall be done only with a supervisor's approval.**
 - (1) **The decision for securing a minor to a stationary object for the aforementioned time frame shall be based upon the best interests of the minor and shall be documented in the associated police report.**
- 31 - **Non-secure detention criteria are as follows:**
 - (a) **The juvenile should not be held more than six (6) hours.**
 - (b) **Minors may be held in non-secure custody if a brief period of time is needed to investigate the case, facilitate release of the minor to a parent or guardian, or arrange for transfer of the minor to the appropriate juvenile facility.**
 - (c) **Minors held in non-secure custody shall receive constant personal visual observation and supervision by staff of the law enforcement agency.**
 - (d) **Sight and sound separation procedures of juveniles detainees from adult detainees shall be complied with during detention of juveniles at the PSB.**
- 32 - **Employees shall provide appropriate care to a minor in temporary custody.**
 - (a) **The following shall be made available to all minors held in temporary custody:**
 - (1) **Access to a toilet and lavatory facilities;**
 - (2) **One snack upon request during term of temporary custody if the minor has not eaten within the past four hours or is otherwise in need of nourishment;**
 - (3) **Access to drinking water; and,**

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- (4) Privacy during visits with family, guardian or lawyer.
 - (b) Minors placed in locked enclosures shall be:
 - (1) Provided blankets and clothing, as necessary, to assure the comfort of the minor; and,
 - (2) Permitted to retain and wear his or her personal clothing unless the clothing is inadequate, presents a health or safety problem, or is required to be seized as evidence of an offense.
- 33 - The employee responsible for a juvenile in temporary custody will provide the minor the opportunity to make authorized telephone calls.
- (a) Immediately after a juvenile is taken into custody, when possible, and in any event no later than 30 minutes after arrival at the PSB, the juvenile has the right to make at least two telephone calls: one call completed to a parent or guardian, a responsible relative or any employer, and another call completed to an attorney.
 - (b) The telephone calls will be made in the presence of a police officer, and all numbers called shall be recorded in the appropriate space on the Juvenile Responsibility Report with completed calls noted.

NOTIFICATION OF PARENT OR GUARDIAN

- 34 - Whenever a juvenile is taken into custody, the assigned officer shall ensure efforts are made to contact a parent, guardian or responsible adult relative.
- (a) An attempt to contact the juvenile's parent, guardian or other responsible adult relative shall be made no later than fifteen (15) minutes after post-transport arrival at the PSB.
 - (b) Should an initial attempt to contact a parent, guardian or adult relative fail, renewed attempts shall be made by telephone every 30 minutes until processing and investigation have been completed. The time of all calls shall be logged on the Juvenile Responsibility Report.
 - (c) If a parent, guardian or adult relative has not been contacted at the conclusion of the investigation and processing, the assigned officer shall ensure written notification is delivered to the parent's/guardians known address, giving notice of the juvenile's detention, his/her present whereabouts, the name of the assigned officer, and relevant report number.
- 35 - An officer who detains and does not take into custody a juvenile may notify a parent, guardian or responsible adult relative of the purpose and disposition of the detention, if in the interest of the minor and/or public/parental relations.

Entire text is revised.

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- 36 - Whenever a child is taken into protective custody pursuant to WIC §300, the handling officer shall accomplish parent/guardian notifications required by WIC §307.4.
- (a) WIC §307.4 requires a peace officer immediately inform, through the most efficient means available, the parent, guardian, or responsible relative, that the minor has been taken into protective custody and that a written statement is available from the Juvenile Probation Department which explains: 1) the parent's or guardian's procedural rights; and, 2) the preliminary stages of the dependency investigation and hearing.

INTERROGATION

- 37 - Immediately prior to interrogation, a juvenile shall again be advised of his/her Constitutional *Miranda* rights in language commensurate with their age and sophistication.
- (a) Reasonable effort should be made to obtain a written waiver of Constitutional rights from the juvenile. The Admonition and Waiver form shall be used.
- (1) In the event the juvenile agrees to participate in an interrogation but refuses to sign the Admonition and Waiver form, his/her verbal waiver shall be witnessed by two officers and indicated on the waiver form.
- 38 - A request from a juvenile to speak with their parent or guardian prior to, or have that person present during, interrogation shall be explored to determine whether or not it constitutes an invocation of *Miranda* (e.g., the right to counsel, or a conditional invocation of the right to silence.)
- (a) Officers are under no obligation to advise a minor that he/she has a right to contact parent or guardian, or have that person present during questioning, as no such right exists.
- 39 - The number of officers interrogating a juvenile should not exceed two officers, unless authorized by a supervisor.
- 40 - The duration of the interrogation should be limited to only that time necessary to ascertain the necessary investigative information.
- (a) Should the interrogation need to proceed over a long period of time, consideration should be given to the child's age and his/her needs for appropriate breaks and necessary refreshment.

WHEN JUVENILE SUSPECTED OF BEING RUNAWAY

- 41 - When a juvenile is a suspected runaway the officer shall:

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- (a) Contact the parent, guardian or a responsible adult;
 - (1) Allow the youth to speak with parent, guardian or responsible adult;
- (b) Allow youth to make two completed telephone calls;
- (c) Immediately release if parents say youth is not a runaway;
- (d) Proceed with standard documentation and reporting procedures if parents say youth is a runaway;
- (e) Provide food, water, and access to lavatory facilities, as necessary; and,
- (f) If unable to contact a parent, guardian or responsible adult, or they do not cooperate with police and/or refuse take custody of their runaway juvenile, procedures described in paragraph 45 of this Order shall be followed.

JUVENILE RESPONSIBILITY AND DISPOSITION FORMS

- 42- A Juvenile Responsibility Form shall be completed by the assigned officer whenever a juvenile is taken into custody pursuant to WIC §§300, 601 or 602.
- 43 - The assigned officer shall prepare and submit the indicated additional administrative processing forms in the following situations:
 - (a) Juvenile is released to parent or responsible adult:
 - (1) A Notice to Parent or Guardian form.
 - (b) Juvenile is transported to Juvenile Hall:
 - (1) A standard Consolidated Arrest Report (CAR) form.
 - (2) An Alameda County Juvenile Intake Disposition Report ("Blue Sheet").
 - (i) A two-part form, both parts go with the juvenile to Juvenile Hall; no copies are needed by the Berkeley Police Department.
 - (3) A Juvenile Detention Disposition Report ("Purple Form").
- 44 - The transporting officer shall deliver two (2) complete copies of the arrest report to Juvenile Hall for each juvenile transported.
- 45 - When a juvenile in custody meets the criteria for release to a parent, guardian or adult relative as established by this Order and no such person can be located, the juvenile shall be transported to an appropriate facility (e.g., Juvenile Hall or a crisis receiving home.)

Entire text is revised.

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- (a) The transporting officer will request the signature of the facility intake person on the original copy of the Notice to Parent Form.
 - (b) The transporting officer will issue a duplicate of the completed Notice to Parent Form to the facility intake person and request it be issued to the parent or guardian who ultimately accepts custody of the juvenile.
- 46 - All reports which involve a juvenile taken into custody and either released to a parent, transported to Juvenile Hall, or placed in a crisis receiving home (e.g., Malabar House) shall be placed by a supervisor in the 'in-custody' report transfer box after review.
- (a) It shall be the responsibility of the Support Services Division Records Bureau to forward a copy of juvenile in-custody, or otherwise indicated, reports to the Youth Services Detail.

OTHER DISPOSITIONS

- 47 - Juveniles may be released without preparing a Juvenile Responsibility Report or an Arrest Record when:
- (a) Involved in a traffic violation and a citation or bicycle citation is issued.
 - (b) Responsible for minor malicious mischief, pranks, or disturbing the peace under conditions similar to Fourth of July or Halloween celebrations.
 - (c) Brought to the PSB and found not to be responsible for an offense.
 - (d) Reported missing and voluntarily returned home without suspicious circumstances and without being missing overnight.

DETENTION-RELATED DEATH OR SERIOUS INJURY

- 48 - In the event a minor is seriously injured or dies while in detention, employees shall follow procedures detailed in General Order P-12.

JUVENILE ESCAPEES

- 49 - When a report is received that a juvenile has escaped from a county facility or out-agency personnel, the Communications Center shall initiate a numbered report and assign a Patrol Division officer to investigate the incident.
- (a) Reports involving juveniles who have escaped or run away from a County institution or out-agency personnel shall be classified as "Out Aid" to the reporting agency and investigated as a missing person/runaway, as described in General Order M-1.

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- (b) If the subject juvenile resides outside of Berkeley, the Investigating officer will ensure the police department having jurisdiction over the juvenile's permanent residence is notified of the minor's escape/absence.

JUVENILE RECORDS

50 - The Support Services Division shall have responsibility for management and dissemination of juvenile-related records, such as police reports and criminal history information.

- (a) Public record application for and release of juvenile record information shall be coordinated by the Support Services Division Records Bureau.
 - (1) The release of criminal history information shall conform with *T.N.G. v. SUPERIOR COURT* (4 CA, 3rd 767 (1971)) and the related Special Matter Order, signed by the Presiding Judge, Alameda County Juvenile Court, dated August 12, 1982.
- (b) Expunging or sealing juvenile records shall be the responsibility of the Support Service Division Commander.

References: California Code of Regulations, Titles 15 and 21
California Education Code §49068.6
California Welfare and Institutions Code, §§300, 305, 307, 307.4, 307.5, 308, 601, 602, 626, 626(d), 626.5, 627(a), and 627(b)
T.N.G. v. Superior Court ((1971) 4 CA, 3rd 767)
Special Matter Order, signed by the Presiding Judge of Alameda County (8/12/82)
General Orders D-2, E-8, H-2, I-3, J-1, M-1, P-12 and R-31
Police Regulations 313 and 408
Special Order #03-00026, "Change in Procedures – Juvenile Handcuffing and Juvenile Miranda Rights", issued September 11, 2003

Public Appearances

350.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines and procedures for employees involved in public events and appearances.

350.2 POLICY

Employees will represent the City of Berkeley and the Police Department at public events and appearances, when requested or required, and shall conduct themselves in a courteous, respectful and professional manner.

Employees attending and participating in public events and appearances shall comply with the procedures set forth in this policy.

350.3 PROCEDURES

With regard to the Department's commitment to community participation in problem solving and crime prevention, employees will make reasonable efforts to participate in public events in a manner that will promote community engagement, problem solving and crime prevention.

350.4 REQUESTS TO AN EMPLOYEE

A community request made to an employee for their appearance at a planned public event shall be submitted in writing to the employee's division captain for approval.

Should the request be received on short notice, approval shall be requested from the employee's supervisor prior to committing to appear at the public event.

- (a) A supervisor authorizing an employee's appearance at a public event shall communicate the approval in writing to the division captain via email or memorandum.

350.5 REQUESTS TO CSB

A request for an employee appearance at recurrent public events of organized community groups, such as Neighborhood Watch groups, shall be made to the Community Services Bureau.

The CSB Sergeant or his/her designee shall complete a Neighborhood Watch Meeting/Event Notice form, identify the appropriate on-duty Patrol team, and route the form to that team's Watch Commander.

350.6 PATROL

The sergeant of the assigned Patrol team shall ensure an officer attends the public event scheduled on the Notice form.

- (a) If, due to an emergency or unforeseen conflict, the assigned officer cannot attend the scheduled event, that officer's sergeant shall assign another officer to the event, or make a reasonable effort to attend the event on behalf of the initially assigned officer.

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- (b) Should police personnel be unable to attend a scheduled public event, the assigned officer shall, at his/her soonest opportunity, make a courtesy call to the contact person listed on the Notice form and explain the circumstances resulting in the inability to satisfy the appearance request.
1. The assigned officer's sergeant shall ensure the event's contact person is called when police personnel are unable to attend a scheduled public event.

350.7 AFTER THE EVENT

After the conclusion of the public event, the employee in attendance shall complete a "Public Appearance" form, available in the Community Services Bureau and forward it to the CSB Sergeant.

The employee who attended a scheduled public event shall include meeting related details on the Notice form and return the form to CSB prior to the end of his/her duty shift.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: September 25, 2007

GENERAL ORDER P-16

SUBJECT: PUBLIC APPEARANCES

PURPOSE

- 1 - The purpose of this General Order is to establish guidelines and procedures for employees involved in public events and appearances.

POLICY

- 2 - Employees will represent the City of Berkeley and the Police Department at public events and appearances, when requested or required, and shall conduct themselves in a courteous, respectful and professional manner.
- 3 - Employees attending and participating in public events and appearances shall comply with the procedures set forth in this Order.

PROCEDURES

- 4 - With regard to the department's commitment to Community Involved Policing (CIP) and value of community participation in problem solving and crime prevention, employees will make reasonable efforts to participate in public events in a manner that will promote community engagement, problem solving and crime prevention.
- 5 - A community request made to an employee for their appearance at a planned public event shall be submitted in writing to the employee's Division commander for approval.
- 6 - Should the request be received on short notice, and the procedure described in paragraph 5 be impractical, approval shall be requested from the employee's supervisor prior to committing to appear at the community event.
 - (a) A supervisor authorizing an employee's appearance at a public event shall communicate the approval in writing to the Division Commander via Daily Log, email or memorandum.
- 7 - As soon as practical after the conclusion of the public event, the employee in attendance shall complete a "Public Appearance" form, available in the Community Services Bureau and forward it to the Bureau's Community Services Officer (CSO.)
- 8 - A request for an employee appearance at recurrent public events of organized community groups, such as Neighborhood Watch groups, shall be made to the Community Services Bureau and coordinated by the Bureau's CSO.
- 9 - The CSB CSO shall complete a Neighborhood Watch Meeting/Event Notice form, identify the appropriate on-duty Patrol team, and route the form to that team's Watch Commander.

* Entire text is revised

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DATE ISSUED: September 25, 2007

GENERAL ORDER P-16

- 10 - The Patrol supervisor of the assigned Patrol team shall ensure a patrol officer attends the public event scheduled on the Notice form.
- (a) If, due to an emergency or unforeseen conflict, the assigned officer cannot attend the scheduled event, that officer's supervisor shall assign another patrol officer to the event, or make a reasonable effort to attend the event on behalf of the initially assigned officer.
 - (b) Should police personnel be unable to attend a scheduled public event, the assigned officer shall, at his/her soonest opportunity, make a courtesy call to the contact person listed on the Notice form and explain the circumstances resulting in the inability to satisfy the appearance request.
 - (1) The assigned officer's supervisor shall ensure the event's contact person is called when police personnel are unable to attend a scheduled public event.
- 11 - The employee who attended a scheduled public event shall include meeting related details on the Notice form and return the form to the Community Services Bureau prior to the end of his/her duty shift.

Reference: General Order P-14

First Amendment Assemblies

429.1 PURPOSE

The purpose of this policy is to provide policy and procedural guidance to Berkeley Police Department personnel involved in the planning, response and/or deployment of police personnel for crowd situations.

429.2 MISSION STATEMENT

The mission of the Berkeley Police Department in crowd situations is to facilitate free expression, de-escalate violence and resolve conflict peacefully with the overall goal of ensuring public safety and protecting First Amendment rights of free speech and assembly.

- (a) Appropriate action will be determined by the Incident Commander in the field, and will be based on the behavior of the people in the crowd.
- (b) Police action shall be reasonable, intended to prevent lawlessness or restore order, and may include responses ranging from no police action to full crowd control tactics.

429.3 POLICY

In the event a crowd situation is determined to be a peaceful protest or demonstration, where participants are exercising their rights to free speech in a lawful manner, the policy of the Berkeley Police Department shall be to facilitate the event to the extent possible.

The Department shall make it a priority to establish lines of communication with the demonstrators both before and during the crowd situation. The Department shall consider social media as one means of communication.

In the event that a crowd situation is unlawful, and lack of immediate police action may lead to the escalation of criminal behavior and violence, the Berkeley Police Department will take steps to restore order.

- (a) Steps to restore order may include monitoring with minimal police presence, a strong police presence, selective arrest of those committing crimes or a dispersal order.
- (b) Prior to issuing a dispersal order, BPD shall make efforts to safely arrest those committing crimes while preserving the rights of citizens to demonstrate.
- (c) Opportunities to de-escalate from crowd control to crowd management tactics should be continually evaluated by considering all available resources and deploying them flexibly.

429.4 USE OF FORCE

Employees who employ force in a crowd control situation shall do so in conformance with policy set forth in the Use of Force Policy.

- (a) Pain compliance techniques (e.g., gum nerve, buckle nerve pressure, etc.), impact weapons and chemical agents should not be used on persons participating in a crowd

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situation who are committing an unlawful act with passive resistance (e.g., sitting or lying down to block a doorway) solely to effectuate a custodial arrest.

1. Verbal commands to stand followed by control holds (e.g., wrist lock, twist lock, etc.) with reasonable pressure may be utilized to attempt to require an arrestee who is sitting or lying down to stand up to effectuate a custodial arrest.
 2. If an arrestee who is sitting or lying down continues to refuse to stand up in response to verbal commands followed by pressure applied from a control hold, the officer should use drag, carry, or roll techniques to effectuate the custodial arrest.
 3. Once an arrestee is standing in a self-supporting manner, the officer may counter an arrestee's lapse into passive resistance (e.g., attempting to fall or sit down) with control holds that would likely prevent such a movement.
- (b) Officers attempting to move a crowd or individual should not strike anyone who is unable to move back for reasons out of their control (i.e., physical disability, crowd surge, being pinned against a fixed object, etc.)
- (c) Sworn officers should employ particular applications of force (e.g., a specific baton strike, such as a "rake" or "jab") as may be directed by their chain of command, when its use is intended to accomplish a desired crowd control objective.
1. Officers shall not intentionally strike a person with any baton to the head, neck, throat, kidneys, spine or groin except when the person's conduct is creating an immediate threat of serious bodily injury or death to an officer or any other person.
 2. Officers on a skirmish line shall not use batons to collectively push a crowd in a particular direction prior to dispersal orders being given unless exigent circumstances exist. This requirement does not apply to officers on a skirmish line who are using force in compliance with *Graham v. Conner*.
- (d) Officers are not precluded from using authorized force, as appropriate, to address the actions of a particular person(s).
- (e) Less-lethal munitions shall only be fired at a specific target and officers shall be mindful of the increased risk of hitting an unintended target due to unexpected movement of members of the crowd. Officers may never use less-lethal munitions indiscriminately against a crowd or group of people.

Personnel deployments during demonstrations should include clear and specific objectives.

In squad or team movement, the type and scope of force used shall be at the discretion of the Incident Commander, Field Commander, Squad or Team Leader.

Less-than-lethal munitions, chemical agents (including OC spray), and/or smoke shall only be deployed in crowd situations as outlined in the Use of Force Policy. For planned events, inventories shall be conducted before and at the conclusion of the incident. Outside agency inventories shall also be tracked.

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The Field Commander shall determine the type and quantity of chemical agents to be used. After use of chemical agent, the Field Commander shall re-evaluate the scene to determine if additional chemical agents are needed.

429.5 USE OF VEHICLES

BPD shall enhance mobility and flexibility by using police vehicles such as trained bicycle officers and motorcycle officers, in addition to foot patrols, to maintain peaceful crowd management. Parking Enforcement Officers will only be used for traffic control purposes.

Specialized police vehicles (e.g., police motorcycles, off-road motorcycles, parking enforcement vehicles, mobile command vehicles, etc.) may be used in crowd situations at the discretion of the Incident Commander.

- (a) Specialized police vehicles shall not be used to contact demonstrators for the purpose of physically pushing people back or forcibly dispersing them from an area.
- (b) Specialized police vehicles may be in a MFF line with other marked vehicles as a visual deterrent.

429.6 DEFINITIONS

Control Hold: Any Department approved hold, designed to allow an officer to control the movement of a subject (e.g., twist lock, rear wrist lock, finger lock, etc.).

Counter Demonstration: An assembly of persons in conflict with a different demonstration at the same location.

Crowd Control: Law enforcement response to a pre-planned event or spontaneous event, activity or occurrence that has become unlawful or violent and may require arrests and/or the dispersal of the crowd. These strategies include but are not limited to skirmish lines, mobile field force techniques, targeted and mass arrests and the use of force generally.

Crowd Management: Strategies and tactics employed before, during and after a gathering for the purpose of maintaining the event's lawful activities. These strategies include, but are not limited to: communication with leaders before and during the event, police presence and event participation, blocking traffic to facilitate a march, and bicycle officers monitoring the crowd.

Demonstration: A public assembly of persons to exhibit thoughts, ideas or opinions.

Incident Commander: A sworn officer, usually a lieutenant or captain, responsible for all personnel assigned to an event.

During the initial stages of a spontaneous event, the Incident Commander will be the highest ranking or senior officer available to take charge, until relieved of responsibilities by a higher ranking officer.

Mobile Field Force (MFF): A statewide tactical concept that utilizes groups of trained officers with standard marked police vehicles and equipment, who have the capability to respond to crowd events that are highly mobile or that break up and quickly reform in other locations.

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Non-Permitted Event: Any demonstration, whether spontaneous or planned, wherein organizers have not obtained permits or licenses that are lawfully required under the circumstances.

Operations Commander: A sworn officer, usually a lieutenant or sergeant, responsible for the movement and actions of a platoon, squad, or other identified group of officers at the scene of an event.

Pain Compliance Technique: Any technique designed to inflict pain for the purpose of motivating a person to comply with verbal commands (e.g., buckle nerve, gum nerve, sternum rub).

Passive Resistance: When an individual does not follow the lawful verbal commands of a police officer, but does not physically resist in any way (i.e., a person who goes completely limp, sits down and refuses to stand or walk, or who may stand with arms at their sides without attempting to strike at or physically resist officers.)

Persons who lock arms, use lockdown devices, or physically resist officers in any other way are not considered "passive".

Permitted Event: Any demonstration or event wherein organizers have obtained all applicable permits or licenses.

Platoon: Any group of officers, usually 36 or more in number, organized into 3 or more squads. Each platoon will have a commander, usually a lieutenant, who is responsible for the actions of the platoon in the field.

Protected First Amendment Activity: Various forms of expression including, but not limited to, speech, assembly, marching, holding signs, street theater, distribution of literature, or displaying banners.

- (a) Freedom of speech and assembly are rights protected by the First Amendment of the United States Constitution, and Article 1 Sections 2 & 3 of the California Constitution subject to reasonable time, place and manner regulations, such as, compliance with lawful permit requirements and traffic regulations.

Riot: Any group of two or more people, acting together, who use force, violence, or the threat of force or violence, to disturb the public peace (Penal Code § 405).

Riot Gear: Police equipment visible to the public and generally associated with crowd control, such as, helmets, batons, flex-cuffs, special uniforms, specialized vehicles, etc.

Spontaneous Event: Any unplanned event that develops, usually as a result of some catalyst, such as sporting events, parties, concerts, court rulings, festivals, major political events, major news events, or any combination thereof.

Squad: A group of sworn officers, usually 12 in number, with an identified squad leader responsible for the actions of the squad.

Squad Leader: A sworn officer, usually a sergeant, responsible for the movement and actions of a squad.

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Team: A group of four sworn officers within a squad, inclusive of an identified leader responsible for the actions of the team.

Team Leader: A sworn officer, sometimes a sergeant, responsible for the movement and actions of a team of officers within a squad.

Time, Place or Manner Restrictions: Reasonable restrictions on protected activity imposed by law (e.g., an applicable permit) intended to serve a specific governmental interest (e.g., public safety), with regard to the time, location, or manner in which protected activity is to be conducted.

Unlawful assembly: Two or more persons, assembled together to commit an unlawful act, or do a lawful act in a violent, boisterous, or tumultuous manner (Penal Code § 407).

The prohibition in Penal Code § 407 against persons in an assembly doing a lawful act in a violent, boisterous or tumultuous manner is limited only to situations where the conduct poses a clear and present danger of imminent violence ((1973) 9 Cal. 3d 612, 623).

429.7 PLANNED EVENTS

- (a) At such time as a special event or crowd situation comes to the attention of police department personnel, the Operations Division Captain or Watch Commander shall be notified, and forwarded all information regarding the event.
- (b) The Incident Command System (ICS) shall be used for managing all crowd situations. ICS should include the appointment of an Incident Commander, and be structured to sufficiently distribute responsibilities allowing for all necessary tasks to be accomplished with a manageable span of control.
- (c) The Incident Commander shall, whenever possible, establish a liaison with the group or groups involved, and other potential stakeholders.
 1. Stakeholders may include event organizers, business owners or their employees, or private residents that may be affected by an event.
 - i. Stakeholder involvement is critical to the overall success of managing any crowd event, but may be especially helpful during planned demonstrations where civil disobedience is expected.
 - ii. If a leader or cooperative event organizer is not identified, the Incident Commander shall ensure that attempts to communicate with the group and establish a liaison will continue to the extent reasonable.
- (d) Once assigned to a preplanned event, the Incident Commander shall make an initial assessment of the personnel needed to appropriately manage the event based on the information available at the time.
 1. Initial assessment may include on-duty personnel in the Operations Division and other divisions within the Department.
 2. If available on-duty personnel will not be sufficient to manage an event, consideration should be given to calling in off duty personnel and requesting mutual aid resources from surrounding police agencies.

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- (e) Once sufficient details of the event are known to accurately estimate the scope of response, and required personnel are identified, the Incident Commander shall work with Division Captains to secure their participation.
- (f) Once all personnel required to work the event are identified and committed to an event, the Incident Commander shall ensure a written Operations Plan is completed, time and circumstances permitting.
 - 1. An Operations Plan shall contain sufficient detail to allow an uninvolved party who reads it to understand the nature of the event, department policy involved, planned response and the department resources dedicated to it.
 - 2. The Operations Plan shall include specific guidelines and priorities to consider when making deployment decisions and shall reflect the department's commitment to crowd management.
 - 3. Upon approval by the Operations Captain and signed by the Chief of Police, the original Operations Plan shall be scanned into the Professional Standards folder (within the Department's internal GDrive) and copies distributed to all appropriate personnel.

429.8 SPONTANEOUS EVENTS

- (a) Sworn officers shall respond to a reported spontaneous crowd situation to assess immediate hazards to public safety.
- (b) The ranking sworn officer, or senior officer, shall assume the role and responsibilities of Incident Commander, and take the following immediate actions:
 - 1. Broadcast the type of event, if known, and estimated number of participants.
 - 2. Report known or imminent public safety hazards.
 - 3. Request sufficient on-duty personnel resources to address life-threatening public safety emergencies.
- (c) The on-duty Watch Commander, or if absent or unavailable, the senior Patrol Sergeant, shall respond to the event scene and take the following actions:
 - 1. Assume the role and responsibilities of Incident Commander.
 - 2. Assess the potential risks to public safety.
 - 3. Assess whether or not a static event has the potential to go mobile, either on foot in the form of a march, or in vehicles.
 - 4. Assess the number of officers and type of equipment required to maintain order and their manner of response.
 - 5. Assess the potential need for outside resources:
 - i. On-duty personnel from other police agencies.
 - ii. Fire Department personnel and resources.
 - iii. Media relations personnel.

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6. Identify and broadcast the location of the Incident Command Post, operational staging areas, and routes to and from.
- (d) The Incident Commander should consider the following factors when making decisions regarding the police response:
1. The overall level of risk to both participants and the general public who may be inadvertently caught up in the event.
 2. The level of disruption to those not involved in, but impacted by the event.
 3. The level of vehicular traffic.
 4. The number of people involved in the event and their behavior.
 5. The personnel and equipment available for the task.
- (e) The Incident Commander may use on-duty personnel from other divisions or units to assist in the police response to a spontaneous event.
- (f) The Incident Commander shall direct necessary on-duty personnel to a static event and make response assignments as required, which may include, but are not limited to:
1. Assign personnel to monitor the event only.
 2. Use personnel to maintain order at the event and/or divert uninvolved, affected traffic away from the area.
- (g) If the event is mobile, the Incident Commander should consider response actions appropriate to manage or control the behavior and activities of the crowd, options including, but not limited to:
1. Let the group proceed with no police presence.
 2. Assign officers to facilitate the mobile event by providing traffic control.
 3. Attempt to direct the path of the mobile event by denying access to certain roadways.
 4. Allow the mobile event to proceed, but deny access to certain locations that would create a public safety hazard, such as, roadways to bridge approaches and roadways in busy commercial districts.
 5. Declare the event an unlawful assembly if circumstances qualify, and allow the group to disperse, make arrests, or use force to disperse the group for the purpose of restoring public order.
- (h) There is no required order of response; the Incident Commander shall be responsible for continually assessing the event and adjusting the response strategies and tactics accordingly. Opportunities to de-escalate from crowd control to crowd management tactics should be continually evaluated by considering all available resources and deploying them flexibly.
- (i) The Incident Commander shall remain responsible for the police response to a planned or spontaneous crowd event until relieved by a higher ranking officer, or the position is relinquished to another officer who officially assumes the responsibility.

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1. Any change of command shall be broadcast on the radio frequency used to manage the police response.

429.9 GENERAL EVENT PROCEDURES

- (a) Employees dispatched or pre-assigned to a crowd situation shall be in a department-approved uniform appropriate for their assignment.
 1. Employees shall ensure their name and badge number are visible upon their uniform, and badge number is visible on their helmet, if worn.
- (b) Officers dispatched or pre-assigned to a crowd situation shall have immediately available relevant department-issued safety equipment, (i.e., helmet, chemical agent mask, etc.).
- (c) Specialized weapons and equipment (i.e., patrol rifles, less-than-lethal munition launchers, chemical agent masks, etc.) shall be deployed at the discretion of the Incident Commander. The Incident Commander shall be responsible for assuring that there is an inventory of less-lethal munitions, CS gas, and/or smoke prior to deployment, including any outside agencies assisting BPD. Absent exigent circumstances, such less-lethal munitions, CS gas and smoke shall not be deployed prior to determination of an accurate inventory.
- (d) The Incident Commander shall ensure personnel receive an operational briefing, whether in person or via radio, prior to their deployment.
 1. Information communicated in an operational briefing shall include, at minimum:
 - (a) The nature of the event.
 - (b) The mission and operational goal(s) of the department.
 - (c) The chain of command managing the event.
 - (d) The individual's assignment and any special equipment he/she may require to accomplish it.
 - (e) When possible, the identity and appearance of all undercover personnel involved in the police response.
 - Undercover personnel should be present at operational briefings for planned events.
- (e) Undercover personnel shall adhere to laws and policies governing information gathering by law enforcement.
- (f) Verbal requests or commands should be used before and when advancing on a crowd.
 1. Commands should be simple and stated clearly, giving members of the crowd an opportunity to comply before force is used. (Examples: "Step back!" or "Move onto the sidewalk!")
- (g) Employees in a crowd situation shall conduct themselves in a professional and courteous manner, answering questions when appropriate.

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- (h) When practical, as part of an implemented crowd control plan, police personnel should attempt to identify and separate from the crowd individuals who are violating the law.
 - 1. Efforts to take an offender into custody in a crowd situation should strive to minimize the risk to uninvolved persons, to the extent reasonably possible.
- (i) Visual recording devices should be used to document the activities of police personnel and the people involved in a crowd situation.
 - 1. Activities that should be documented via visual recording device include, but are not limited to:
 - i. Criminal activity (misdemeanor or felony);
 - ii. Violation of a Permit condition, City Ordinance, or traffic violation.
 - iii. Use of force by officers.
 - iv. Arrests by officers.
 - v. Any person who, by words or action, is inciting violence.
 - vi. Dispersal orders issued by police.
- (j) Employees shall adhere to information release and media liaison protocols set forth in the Records Maintenance and Release policy and the Media Relations policy, respectively.
 - 1. The Incident Commander shall ensure legitimate "credentialed" members of the media are provided access to areas available to them by law.
 - 2. A person who claims to be a member of the media, but who does not possess a bona fide media credential, has no special privilege and shall be treated like any other citizen with regard to event area access.

429.10 DISPERSAL ORDERS

- (a) The Incident Commander at any crowd situation shall make the determination as to when or if a crowd, whose behavior poses a clear and present danger of imminent violence, will be declared an unlawful assembly.
- (b) Unless otherwise directed or required, the following dispersal order text shall be used by Berkeley Police Department personnel in crowd control situations:
 - 1. "I am () () with the Berkeley Police Department. I hereby declare this to be an unlawful assembly, and in the name of the people of the State of California, command all those assembled at () to leave the area immediately. If you do not leave, you are in violation of section 409 of the California Penal Code, and may be arrested or subject to other police action. Other police action may include the use of less lethal projectiles, baton strikes, or use of tear gas, which may pose a risk of serious injury. The following routes of dispersal are available: () You have () to leave the area."
- (c) Except when exigent circumstances exist and doing so would place officers or the public at risk, a dispersal order shall be issued prior to forcibly dispersing a crowd.

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- (d) The Incident Commander, or his/her designee, shall issue a dispersal order:
 - 1. As close to the crowd as practical;
 - 2. In a manner clearly audible to persons in the crowd;
 - i. Use sound amplification systems when necessary;
 - ii. When practical, shall record the dispersal order to establish that the orders were audible to the crowd.
 - iii. When practical, employ officers stationed around the perimeter of the crowd to ensure the dispersal order is clearly audible.
 - 3. In more than one language if possible, depending on the needs of the crowd.
- (e) Additional dispersal orders may be given following a reasonable period of time to allow for crowd dispersal. Ongoing dispersal orders should be avoided.
- (f) If after a dispersal order is given, a crowd is discovered in a different location, the new location should be evaluated to determine if it is an ongoing unlawful assembly.

429.11 MASS ARRESTS

- (a) When considering the arrest of multiple people at a crowd control event, the Incident Commander should evaluate preparedness of the following operational elements:
 - 1. **Resource Availability:** Sufficient personnel should be available to maintain order, accomplish intended arrests and subsequent processing, and maintain control of the arrestees through a booking process, if necessary.
 - 2. **In-Field Arrest Processing:** Equipment and logistics should be available to facilitate in-field processing of mass arrests.
 - 3. **Transportation:** In the event arrestees are not released in-field on citation, vehicles should be available to facilitate necessary transportation to a custodial facility.
 - 4. **Booking/Jail Capacity:** The custodial facility to which arrestees are transported should have the capacity to receive and maintain custody of persons not released on citation.
 - 5. **Documentation:** Arresting personnel must ensure arrestees are identified and photographed, arrests are effectively documented, and associated paperwork is properly directed for administrative processing.

429.12 MUTUAL AID

- (a) An official request for mutual aid resources shall adhere to procedures set forth the Mutual Aid Policy.
 - 1. Emergency requests for immediate assistance may be made directly to local agencies.

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- (b) The Chief of Police or his/her designee shall contact the liaison from the Alameda County Sheriff's Department to coordinate a plan for mutual aid resources and response.
 - 1. This plan should include the number of officers potentially needed, any special equipment requested, and an expected response time if called out.
 - 2. Absent exigent circumstances, responding mutual aid personnel shall be briefed prior to deployment and should be given clear and specific objectives.
- (c) In preparation for mutual aid forces, the Incident Commander shall ensure that liaison officers from BPD are assigned to work with the outside agency to assist with response routes into the staging area, parking vehicles, checking in with the staging area supervisor, communications and response to event location.
- (d) MFF organization should be employed when integrating mutual aid personnel into local crowd event response, or when responding to another jurisdiction as a mutual aid unit.
 - 1. Personnel should be formed into squads or teams that are easily integrated into squads and platoons.
- (e) When responding to another jurisdiction as a mutual aid unit, personnel will have with them enough vehicles and equipment to allow the deployed team or squad to patrol a designated area, use less-than-lethal munitions or authorized chemical agents, if necessary, and have enough food and water to last for a reasonable operational period until relieved.

429.13 POST-EVENT

Once a normal work schedule has resumed, the Incident Commander shall ensure that an After Action Report is prepared within 72 hours after the resumption of the Incident Commander's normal work schedule. Should an extension be necessary in order to properly and fully complete the report, such a request may be made to the Chief of Police.

- (a) An After Action Report shall document arrests, injuries, property damage, personnel costs, inventories of less lethal munitions, CS gas and smoke, and an overall critique of the police preparation and response.
- (b) An After Action Report should include information in sufficient detail to help others prepare for the event if it, or a similar event, should occur in the future.

429.14 TRAINING

When possible, training in crowd management and crowd control shall be incorporated into general departmental in-service training.

When possible prior to a major pre-planned event, updated training should be provided to all assigned officers.

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SUBJECT: FIRST AMENDMENT ASSEMBLIES

PURPOSE

- 1 - The purpose of this Order is to provide policy and procedural guidance to Berkeley Police Department personnel involved in the planning, response, and/or deployment of police personnel for crowd situations.

Mission Statement

- 2 - The mission of the Berkeley Police Department in crowd situations is to facilitate free expression, de-escalate violence, and resolve conflict peacefully with the overall goal of ensuring public safety and protecting First Amendment rights of free speech and assembly.
 - (a) Appropriate action will be determined by the Incident Commander in the field, and will be based on the behavior of the people in the crowd.
 - (b) Police action shall be reasonable, intended to prevent lawlessness or restore order, and may include responses ranging from no police action to full crowd control tactics.

POLICY

- 3 - In the event a crowd situation is determined to be a peaceful protest or demonstration, wherein participants are exercising their rights to free speech in a lawful manner, the policy of the Berkeley Police Department shall be to facilitate the event to the extent possible.
- 4 - The department shall make it a priority to establish lines of communication with the demonstrators both before and during the crowd situation. The department shall consider social media as one means of communication.
- 5 - In the event that a crowd situation is unlawful, and lack of immediate police action to may lead to the escalation of criminal behavior and violence, the Berkeley Police Department will take steps to restore order.
 - (a) Steps to restore order may include monitoring with minimal police presence, a strong police presence, selective arrest of those committing crimes, or a dispersal order.
 - (b) Prior to issuing a dispersal order, BPD shall make efforts to safely arrest those committing crimes while preserving the rights of citizens to demonstrate.
 - (c) Opportunities to de-escalate from crowd control to crowd management tactics should be continually evaluated by considering all available

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resources and deploying them flexibly.

Use of Force

- 6 - Employees who employ force in a crowd control situation shall do so in conformance with policy set forth in General Order U-2.
- (a) Pain compliance techniques (e.g., gum nerve, buckle nerve pressure, etc.), impact weapons, and chemical agents should not be used on persons participating in a crowd situation who are committing an unlawful act with passive resistance (e.g., sitting or lying down to block a doorway) solely to effectuate a custodial arrest.
 - (1) Verbal commands to stand followed by control holds (e.g. wrist lock, twist lock, etc.) with reasonable pressure may be utilized to attempt to require an arrestee who is sitting or lying down to stand up to effectuate a custodial arrest.
 - (2) If an arrestee who is sitting or lying down continues to refuse to stand up in response to verbal commands followed by pressure applied from a control hold, the officer should use drag, carry, or roll techniques to effectuate the custodial arrest.
 - (3) Once an arrestee is standing in a self-supporting manner, the officer may counter an arrestee's lapse into passive resistance (e.g., attempting to fall or sit down) with control holds that would likely prevent such a movement.
 - (b) Officers attempting to move a crowd or individual should not strike anyone who is unable to move back for reasons out of their control (i.e., physical disability, crowd surge, being pinned against a fixed object, etc.)
 - (c) Sworn officers should employ particular applications of force (e.g., a specific baton strike, such as a "rake" or "jab") as may be directed by their chain of command, when its use is intended to accomplish a desired crowd control objective.
 - (1) Officers shall not intentionally strike a person with any baton to the head, neck, throat, kidneys, spine or groin except when the person's conduct is creating an immediate threat of serious bodily injury or death to an officer or any other person.
 - (2) Officers on a skirmish line shall not use batons to collectively push a crowd in a particular direction prior to dispersal orders being given unless exigent circumstances exist. This requirement does not apply to officers on a skirmish line who are using force in compliance with *Graham v. Conner*.

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- (d) Officers are not precluded from using authorized force, as appropriate, to address the actions of a particular person(s).
 - (e) Less-lethal munitions shall only be fired at a specific target and officers shall be mindful of the increased risk of hitting an unintended target due to unexpected movement of members of the crowd. Officers may never use less-lethal munitions indiscriminately against a crowd or group of people.
- 7 - Personnel deployments during demonstrations should include clear and specific objectives.
 - 8 - In squad or team movement, the type and scope of force used shall be at the discretion of the Incident Commander, Field Commander, Squad or Team Leader.
 - 9 - Less-than-lethal munitions, chemical agents (including OC spray), and/or smoke shall only be deployed in crowd situations as outlined in General Order U-2. For planned events, inventories shall be conducted before and at the conclusion of the incident. Outside agency inventories shall also be tracked.
 - 10 - The Field Commander shall determine the type and quantity of chemical agents to be used. After use of chemical agent, the Field Commander shall re-evaluate the scene to determine if additional chemical agents are needed.

Use of Vehicles

- 11 - BPD shall enhance mobility and flexibility by using police vehicles such as trained bicycle officers and motorcycle officers, in addition to foot patrols, to maintain peaceful crowd management. Parking Enforcement Officers will only be used for traffic control purposes.
- 12 - Specialized police vehicles (e.g., police motorcycles, off-road motorcycles, parking enforcement vehicles, mobile command vehicles, etc.) may be used in crowd situations at the discretion of the Incident Commander.
 - (a) Specialized police vehicles shall not be used to contact demonstrators for the purpose of physically pushing people back or forcibly dispersing them from an area.
 - (b) Specialized police vehicles may be in a MFF line with other marked vehicles as a visual deterrent.

DEFINITIONS

- 13 - Control Hold: Any Department approved hold, designed to allow an officer to

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control the movement of a subject (e.g., twist lock, rear wrist lock, finger lock, etc.).

- 14 - Counter Demonstration: An assembly of persons in conflict with a different demonstration at the same location.
- 15 - Crowd Control: Law enforcement response to a pre-planned event or spontaneous event, activity or occurrence that has become unlawful or violent and may require arrests and/or the dispersal of the crowd. These strategies include but are not limited to skirmish lines, mobile field force techniques, targeted and mass arrests and the use of force generally.
- 16 - Crowd Management: Strategies and tactics employed before, during and after a gathering for the purpose of maintaining the event's lawful activities. These strategies include, but are not limited to: communication with leaders before and during the event, police presence and event participation, blocking traffic to facilitate a march, and bicycle officers monitoring the crowd.
- 17 - Demonstration: A public assembly of persons to exhibit thoughts, ideas, or opinion.
- 18 - Incident Commander: A sworn officer, usually a lieutenant or captain, responsible for all personnel assigned to an event.
 - (a) During the initial stages of a spontaneous event, the Incident Commander will be the highest ranking or senior officer available to take charge, until relieved of responsibilities by a higher ranking officer.
- 19 - Mobile Field Force (MFF): A statewide tactical concept that utilizes groups of trained officers with standard marked police vehicles and equipment, who have the capability to respond to crowd events that are highly mobile or that break up and quickly reform in other locations.
- 20 - Non-Permitted Event: Any demonstration, whether spontaneous or planned, wherein organizers have not obtained permits or licenses that are lawfully required under the circumstances.
- 21 - Operations Commander: A sworn officer, usually a lieutenant or sergeant, responsible for the movement and actions of a platoon, squad, or other identified group of officers at the scene of an event.
- 22 - Pain Compliance Technique: Any technique designed to inflict pain for the purpose of motivating a person to comply with verbal commands (e.g., buckle nerve, gum nerve, sternum rub).
- 23 - Passive Resistance: When an individual does not follow the lawful verbal commands of a police officer, but does not physically resist in any way (i.e., a

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person who goes completely limp, sits down and refuses to stand or walk, or who may stand with arms at their sides without attempting to strike at or physically resist officers.)

- (a) Persons who lock arms, use lockdown devices, or physically resist officers in any other way are not considered "passive".
- 24 - **Permitted Event**: Any demonstration or event wherein organizers have obtained all applicable permits or licenses.
- 25 - **Platoon**: Any group of officers, usually 36 or more in number, organized into 3 or more squads. Each platoon will have a commander, usually a lieutenant, who is responsible for the actions of the platoon in the field.
- 26 - **Protected First Amendment Activity**: Various forms of expression including, but not limited to, speech, assembly, marching, holding signs, street theater, distribution of literature, or displaying banners.
 - (a) Freedom of speech and assembly are rights protected by the First Amendment of the United States Constitution, and Article 1 Sections 2 & 3 of the California Constitution subject to reasonable time, place and manner regulations, such as, compliance with lawful permit requirements and traffic regulations (ref. paragraph 34 of this Order).
- 27 - **Riot**: Any group of two or more people, acting together, who use force, violence, or the threat of force or violence, to disturb the public peace. (ref. Penal Code §405)
- 28 - **Riot Gear**: Police equipment visible to the public and generally associated with crowd control, such as, helmets, batons, flex-cuffs, special uniforms, specialized vehicles, etc.
- 29 - **Spontaneous Event**: Any unplanned event that develops, usually as a result of some catalyst, such as sporting events, parties, concerts, court rulings, festivals, major political events, major news events, or any combination thereof.
- 30 - **Squad**: A group of sworn officers, usually 12 in number, with an identified squad leader responsible for the actions of the squad.
- 31 - **Squad Leader**: A sworn officer, usually a sergeant, responsible for the movement and actions of a squad.
- 32 - **Team**: A group of four sworn officers within a squad, inclusive of an identified leader responsible for the actions of the team.
- 33 - **Team Leader**: A sworn officer, sometimes a sergeant, responsible for the movement and actions of a team of officers within a squad.

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- 34 - Time, Place, or Manner Restrictions: Reasonable restrictions on protected activity imposed by law (e.g., an applicable permit) intended to serve a specific governmental interest (e.g., public safety), with regard to the time, location, or manner in which protected activity is to be conducted.
- 35 - Unlawful assembly: Two or more persons, assembled together to commit an unlawful act, or do a lawful act in a violent, boisterous, or tumultuous manner. (ref. PC §407)
- (a) The prohibition in PC §407 against persons in an assembly doing a lawful act in a violent, boisterous or tumultuous manner is limited only to situations where the conduct poses a clear and present danger of imminent violence. (ref. *In re Brown* (1973) 9 Cal. 3d 612, 623)

PROCEDURE

Planned Events

- 36 - At such time as a special event or crowd situation comes to the attention of police department personnel, the Patrol Division Captain or Patrol Watch Commander shall be notified, and forwarded all information regarding the event.
- 37 - The Incident Command System (ICS) shall be used for managing all crowd situations. ICS should include the appointment of an Incident Commander, and be structured to sufficiently distribute responsibilities allowing for all necessary tasks to be accomplished with a manageable span of control.
- 38 - The Incident Commander shall, whenever possible, establish a liaison with the group or groups involved, and other potential stakeholders.
- (a) Stakeholders may include event organizers, business owners or their employees, or private residents that may be affected by an event.
- (1) Stakeholder involvement is critical to the overall success of managing any crowd event, but may be especially helpful during planned demonstrations where civil disobedience is expected.
- (2) If a leader or cooperative event organizer is not identified, the Incident Commander shall ensure that attempts to communicate with the group and establish a liaison will continue to the extent reasonable.
- 39 - Once assigned to a preplanned event, the Incident Commander shall make an initial assessment of the personnel needed to appropriately manage the event based on the information available at the time.
- (a) Initial assessment may include on-duty personnel in the Patrol Division

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and other divisions within the department.

- (b) If available on-duty personnel will not be sufficient to manage an event, consideration should be given to calling in off duty personnel and requesting mutual aid resources from surrounding police agencies. (ref. paragraphs 67-71 of this Order)
- 40 - Once sufficient details of the event are known to accurately estimate the scope of response, and required personnel are identified, the Incident Commander shall work with Division Commanders to secure their participation.
- 41 - Once all personnel required to work the event are identified and committed to an event, the Incident Commander shall ensure a written Operations Plan is completed, time and circumstances permitting.
- (a) An Operations Plan shall contain sufficient detail to allow an uninvolved party who reads it to understand the nature of the event, department policy involved, planned response, and the department resources dedicated to it. (ref. General Order P-23)
 - (b) The Operations Plan shall include specific guidelines and priorities to consider when making deployment decisions and shall reflect the department's commitment to crowd management.
 - (c) Upon approval by the Patrol Captain and signed by the Chief of Police, the original Operations Plan shall be routed to the Bureau of Internal Controls in the Office of the Chief, and copies distributed to all appropriate personnel.

Spontaneous Events

- 42 - Sworn officers shall respond to a reported spontaneous crowd situation to assess immediate hazards to public safety.
- 43 - The ranking sworn officer, or senior officer, shall assume the role and responsibilities of Incident Commander, and take the following immediate actions:
- (a) Broadcast the type of event, if known, and estimated number of participants.
 - (b) Report known or imminent public safety hazards.
 - (c) Request sufficient on-duty personnel resources to address life-threatening public safety emergencies.

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- 44 - The on-duty Patrol Division Watch Commander, or if absent or unavailable, the senior Patrol Division Sergeant, shall respond to the event scene and take the following actions:
- (a) Assume the role and responsibilities of Incident Commander.
 - (b) Assess the potential risks to public safety.
 - (c) Assess whether or not a static event has the potential to go mobile, either on foot in the form of a march, or in vehicles.
 - (d) Assess the number of officers and type of equipment required to maintain order and their manner of response.
 - (e) Assess the potential need for outside resources:
 - (1) On-duty personnel from other police agencies.
 - (2) Fire Department personnel and resources.
 - (3) Media relations personnel.
 - (f) Identify and broadcast the location of the Incident Command Post, operational staging areas, and routes to and from.
- 45 - The Incident Commander should consider the following factors when making decisions regarding the police response:
- (a) The number of people involved in the event and their behavior.
 - (b) The level of vehicular traffic.
 - (c) The level of disruption to those not involved in, but impacted by the event.
 - (d) The overall level of risk to both participants and the general public who may be inadvertently caught up in the event.
 - (e) The personnel and equipment available for the task.
- 46 - The Incident Commander may use on-duty personnel from other Divisions or units to assist in the police response to a spontaneous event.
- 47 - The Incident Commander shall direct necessary on-duty personnel to a static event and make response assignments as required, which may include, but are not limited to:
- (a) Assign personnel to monitor the event only.

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- (b) Use personnel to maintain order at the event and/or divert uninvolved, affected traffic away from the area.
- 48 - If the event is mobile, the Incident Commander should consider response actions appropriate to manage or control the behavior and activities of the crowd, options including, but not limited to:
- (a) Let the group proceed with no police presence.
 - (b) Assign officers to facilitate the mobile event by providing traffic control.
 - (c) Attempt to direct the path of the mobile event by denying access to certain roadways.
 - (d) Allow the mobile event to proceed, but deny access to certain locations that would create a public safety hazard, such as, roadways to bridge approaches and roadways in busy commercial districts.
 - (e) Declare the event an unlawful assembly if circumstances qualify, and allow the group to disperse, make arrests, or use force to disperse the group for the purpose of restoring public order.
- 49 - There is no required order of response; the Incident Commander shall be responsible for continually assessing the event and adjusting the response strategies and tactics accordingly. Opportunities to de-escalate from crowd control to crowd management tactics should be continually evaluated by considering all available resources and deploying them flexibly.
- 50 - The Incident Commander shall remain responsible for the police response to a planned or spontaneous crowd event until relieved by a higher ranking officer, or the position is relinquished to another officer who officially assumes the responsibility.
- (a) Any change of command shall be broadcast on the radio frequency used to manage the police response.

General Event Procedures

- 51 - Employees dispatched or pre-assigned to a crowd situation shall be in a department-approved uniform appropriate for their assignment.
- (a) Employees shall ensure their name and badge number are visible upon their uniform, and badge number is visible on their helmet, if worn.
- 52 - Officers dispatched or pre-assigned to a crowd situation shall have immediately available relevant department-issued safety equipment, (i.e., helmet, chemical agent mask, etc.).

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- 53 - Specialized weapons and equipment (i.e., patrol rifles, less-than-lethal munition launchers, chemical agent masks, etc.) shall be deployed at the discretion of the Incident Commander. The Incident Commander shall be responsible for assuring that there is an inventory of less-lethal munitions, CS gas, and/or smoke prior to deployment, including any outside agencies assisting BPD. Absent exigent circumstances, such less-lethal munitions, CS gas and smoke shall not be deployed prior to determination of an accurate inventory.
- 54 - The Incident Commander shall ensure personnel receive an operational briefing, whether in person or via radio, prior to their deployment.
- (a) Information communicated in an operational briefing shall include, at minimum:
- (1) The nature of the event.
 - (2) The mission and operational goal(s) of the department.
 - (3) The chain of command managing the event.
 - (4) The individual's assignment and any special equipment he/she may require to accomplish it.
 - (5) When possible, the identity and appearance of all undercover personnel involved in the police response.
 - (i) Undercover personnel should be present at operational briefings for planned events.
- 55 - Undercover personnel shall adhere to laws and policies governing information gathering by law enforcement.
- 56 - Verbal requests or commands should be used before and when advancing on a crowd.
- (a) Commands should be simple and stated clearly, giving members of the crowd an opportunity to comply before force is used. (Examples: "Step back!" or "Move onto the sidewalk!")
- 57 - Employees in a crowd situation shall conduct themselves in a professional and courteous manner, answering questions when appropriate.
- 58 - When practical, as part of an implemented crowd control plan, police personnel should attempt to identify and separate from the crowd individuals who are violating the law.
- (a) Efforts to take an offender into custody in a crowd situation should strive to minimize the risk to uninvolved persons, to the extent reasonably possible.

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- 59 - In conformance with procedures set forth in General Order V-10, visual recording devices should be used to document the activities of police personnel and the people involved in a crowd situation.
- (a) Activities that should be documented via visual recording device include, but are not limited to:
- (1) Criminal activity (misdemeanor or felony);
 - (2) Violation of a Permit condition, City Ordinance, or traffic violation.
 - (3) Use of force by officers.
 - (4) Arrests by officers.
 - (5) Any person who, by words or action, is inciting violence.
 - (6) Dispersal orders issued by police.
- 60 - Employees shall adhere to information release and media liaison protocols set forth in General Orders R-23 and P-29, respectively.
- (a) The Incident Commander shall ensure legitimate "credentialed" members of the media are provided access to areas available to them by law.
- (b) A person who claims to be a member of the media, but who does not possess a bona fide media credential, has no special privilege and shall be treated like any other citizen with regard to event area access.

Dispersal Orders

- 61 - The Incident Commander at any crowd situation shall make the determination as to when or if a crowd, whose behavior poses a clear and present danger of imminent violence, will be declared an unlawful assembly.
- 62 - Unless otherwise directed or required, the following dispersal order text shall be used by Berkeley Police Department personnel in crowd control situations:
- (a) "I am *(rank)* *(name)* with the Berkeley Police Department. I hereby declare this to be an unlawful assembly, and in the name of the people of the State of California, command all those assembled at *(location)* to leave the area immediately. If you do not leave, you are in violation of section 409 of the California Penal Code, and may be arrested or subject to other police action. Other police action may include the use of less lethal projectiles, baton strikes, or use of tear gas, which may pose a risk of serious injury. The following routes of dispersal are available: *(state options available)* You have *(state time expectation)* to leave the area."

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- 63 - Except when exigent circumstances exist and doing so would place officers or the public at risk, a dispersal order shall be issued prior to forcibly dispersing a crowd.
- 64 - The Incident Commander, or his/her designee, shall issue a dispersal order:
- (a) As close to the crowd as practical;
 - (b) In a manner clearly audible to persons in the crowd;
 - (1) Use sound amplification systems when necessary;
 - (2) When practical, shall record the dispersal order to establish that the orders were audible to the crowd.
 - (3) When practical, employ officers stationed around the perimeter of the crowd to ensure the dispersal order is clearly audible.
 - (c) In more than one language if possible, depending on the needs of the crowd.
- Additional dispersal orders may be given following a reasonable period of time to allow for crowd dispersal. (Ongoing dispersal orders should be avoided.)
- 65 - If after a dispersal order is given, a crowd is discovered in a different location, the new location should be evaluated to determine if it is an ongoing unlawful assembly.

Mass Arrests

- 66 - When considering the arrest of multiple people at a crowd control event, the Incident Commander should evaluate preparedness of the following operational elements:
- (a) Resource Availability: Sufficient personnel should be available to maintain order, accomplish intended arrests and subsequent processing, and maintain control of the arrestees through a booking process, if necessary.
 - (b) In-Field Arrest Processing: Equipment and logistics should be available to facilitate in-field processing of mass arrests.
 - (c) Transportation: In the event arrestees are not released in-field on citation, vehicles should be available to facilitate necessary transportation to a custodial facility.
 - (d) Booking/Jail Capacity: The custodial facility to which arrestees are transported should have the capacity to receive and maintain custody of

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persons not released on citation.

- (e) Documentation: Arresting personnel must ensure arrestees are identified and photographed, arrests are effectively documented, and associated paperwork is properly directed for administrative processing.

Mutual Aid

- 67 - An official request for mutual aid resources shall adhere to procedures set forth in General Order M-2.
 - (a) Emergency requests for immediate assistance may be made directly to local agencies.
- 68 - The Chief of Police or his/her designee shall contact the liaison from the Alameda County Sheriff's Department to coordinate a plan for mutual aid resources and response.
 - (a) This plan should include the number of officers potentially needed, any special equipment requested, and an expected response time if called out.
 - (b) Absent exigent circumstances, responding mutual aid personnel shall be briefed prior to deployment and should be given clear and specific objectives.
- 69 - In preparation for mutual aid forces, the Incident Commander shall ensure that liaison officers from BPD are assigned to work with the outside agency to assist with response routes into the staging area, parking vehicles, checking in with the staging area supervisor, communications, and response to event location.
- 70 - MFF organization should be employed when integrating mutual aid personnel into local crowd event response, or when responding to another jurisdiction as a mutual aid unit.
 - (a) Personnel should be formed into squads or teams that are easily integrated into squads and platoons.
- 71 - When responding to another jurisdiction as a mutual aid unit, personnel will have with them enough vehicles and equipment to allow the deployed team or squad to patrol a designated area, use less-than-lethal munitions or authorized chemical agents, if necessary, and have enough food and water to last for a reasonable operational period until relieved.

Post-Event

- 72 - Once a normal work schedule has resumed, the Incident Commander shall ensure that an After Action Report is prepared within 72 hours after the

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resumption of the Incident Commander's normal work schedule. Should an extension be necessary in order to properly and fully complete the report, such a request may be made to the Chief of Police.

- (a) An After Action Report shall document arrests, injuries, property damage, personnel costs, inventories of less lethal munitions, CS gas and smoke and an overall critique of the police preparation and response.
- (b) An After Action Report should include information in sufficient detail to help others prepare for the event if it, or a similar event, should occur in the future.

Training

- 73 - When possible, training in crowd management and crowd control shall be incorporated into general departmental in-service training.
- 74 - When possible prior to a major pre-planned event, update training should be provided to all assigned officers.

References: *In re Brown* (1973) 9 Cal. 3d 612, 623
Penal Code §§405, 407, 409 and 830.10
General Orders C-1, C-10, M-2, P-23, P-29, R-23, U-2, V-10 and X-1
Police Regulations 225, 226, 249 and 250

Intelligence Procedures for First Amendment Activities

430.1 PURPOSE

The purpose of this policy is to provide guidance regarding intelligence gathering procedures and maintenance of intelligence files. Additionally this policy addresses the investigation of individuals and groups involved in First Amendment protected activities, and expressly limits such investigations to situations where a criminal predicate exists.

430.2 CONSTITUTIONAL RESTRICTION TO CRIMINAL ACTIVITY

The United States and California Constitutions provide people with the right of privacy, free expression and free association for any lawful purpose.

The California Constitution expressly provides that "privacy" is an inalienable right. The First Amendment of the US constitution prohibits the government from making a law establishing a religion or prohibiting the free exercise of religion, abridging freedom of speech or of the press, or preventing people from peaceable assembly (e.g., marches and picketing).

While there are certain categories of speech that are not protected (i.e., fighting words, defamation, etc.), these exceptions are limited and have been narrowly construed.

Under these constitutional restrictions, intelligence gathering by the Police Department is only permitted to investigate criminal activity. Intelligence gathering should not include political, religious, or social views or activities of individuals or groups, unless such views or activities directly relate to criminal conduct.

430.3 POLICY

It is the policy of the Berkeley Police Department to ensure that the First Amendment rights guaranteed by the United States Constitution are protected for all individuals and groups, including the press, and to permit police involvement in the exercise of those rights only to the extent necessary to provide for the legitimate needs of law enforcement in investigating criminal activity.

The Berkeley Police Department will obtain, maintain and use information from legal, reliable sources to meet the needs of the Department and the City of Berkeley in carrying out its efforts to protect the public and suppress criminal activity. When the group or individual being investigated is involved in constitutionally protected First Amendment activity, the Department will ensure that there is reasonable suspicion that a criminal predicate exists.

Officers involved in planning for or responding to any protest or event may utilize open source material and are encouraged to contact the individuals or groups organizing the public event in order to facilitate traffic control, crowd management, or other safety measures concerning the event. These measures would not be considered an investigation as defined by this policy.

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The Berkeley Police Department recognizes its critical task in balancing the need for law enforcement in its efforts to protect the broader society, versus the need to safeguard individual rights guaranteed by a democratic process. At times, law enforcement may need to resort to the use of undercover operations, surveillance, and the use of informants to protect the public from groups espousing violence and/or wanton destruction of property.

430.4 FEDERAL AND STATE GUIDELINES

The guidelines of this policy are based largely on the Californian Attorney General's Criminal Intelligence Guidelines and Title 28 Code of Federal Regulations, Part 23 (28 CFR 23). To the extent of this policy is more restrictive than the Attorney General's guidelines or 28 CFR 23, this policy must be adhered to.

430.5 DEFINITIONS

Criminal Predicate: The standard by which the determination as to whether information may be used to create an intelligence file is made. It means that there exists a "reasonable suspicion" based on the analysis of legally obtained information that the subject of the information is or may be involved in definable criminal conduct and/or activity that supports, encourages, or otherwise aids definable criminal conduct. For the purposes of this policy, infraction violations will not be considered sufficient to establish a criminal predicate. The underlying offense must amount to a misdemeanor or felony.

Reasonable Suspicion: Information which, when viewed in its totality, leads a person with appropriate training, specialized knowledge, and/or experience to conclude that a person, association of persons, or organization may be involved in definable criminal conduct and/or activity that supports, encourages or otherwise aids definable criminal conduct.

Open Source: Any source of news or information that could normally be accessed by any member of the public. Examples include the television news, newspapers, speeches at any public gathering or event, the Internet, the public in the form of casual conversations and information brought forward during routine contacts, the radio, billboards, and flyers. Open source information does not include meetings, such as planning meetings or closed-door meetings, where First Amendment protected activities are involved, unless the officers are in uniform and have been invited or are otherwise in a place they have a lawful right to be.

Informant: Non-law enforcement, non-City employees who are specifically gathering information on behalf, and at the request of the Berkeley Police Department.

Videotaping: For the purposes of this policy, the videotaping (whether surreptitious or in plain sight) of individuals or groups involved in First Amendment related activities.

430.6 INTELLIGENCE GATHERING

Intelligence Procedures for First Amendment Activities

430.6.1 OPEN SOURCES

Open source information can be accessed at any time by any member of the Department without reporting requirements, unless otherwise required outside of this policy. Accessing open source information does not constitute an investigation as defined by this policy. However, files on groups or organizations containing open source material shall not be created and maintained, absent a criminal predicate.

Open source information should be validated in compliance with the California Attorney General's Criminal Intelligence Guidelines and 28 CFR 23.

430.6.2 PLAINCLOTHES OFFICERS

Where the activity is First Amendment related, plainclothes officers may only be used where there is a reasonable suspicion of criminal activity arising to acts of violence, destruction of property, or a threat to public safety. Plainclothes officers may be utilized within crowds in public places involved in First Amendment related activities, but only in order to determine the best response for Police to safely address traffic-related issues because they would potentially be in danger even in uniform. In this situation, the plainclothes officers would not be gathering any specific information about the group or individuals, unless criminal activity occurred, just general information such as direction of travel, crowd size estimates and destination.

- (a) Plainclothes officers shall not be utilized at meetings, such as planning meetings or closed-door meetings where First Amendment related activities are involved, except as noted above.
- (b) The use of plainclothes officers at planning-meetings, or closed-door meetings where First Amendment related activities are involved shall require prior approval of the Chief of Police.
- (c) Plainclothes officers shall not, in any circumstance:
 - 1. Attend meetings or engage in other activities for the purpose of obtaining legally-privileged information, such as confidential sources of reporters, attorney-client communications, or physician-patient communications;
 - 2. Assume a leadership position or intentionally cause dissension within an organization;
 - 3. Initiate, propose or suggest, encourage, or incite criminal acts or plans to commit criminal acts;
 - 4. Use unlawful techniques to obtain information; or
 - 5. Participate in acts of violence or unlawful acts.

430.6.3 INFORMANTS

Informants may be utilized in First Amendment related activities where there is reasonable suspicion of criminal activity arising to acts of violence, destruction of property, or a threat to public safety.

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- (a) Informants shall not be utilized at meetings, such as planning meetings or closed-door meetings where First Amendment related activities are involved, except as noted above.
- (b) Use of informants where First Amendment related activities are involved would require prior approval of the Chief of Police and reasonable suspicion of a criminal predicate.
- (c) Information from informants should be validated in compliance with the California Attorney General's Criminal Intelligence Guidelines and Title 28 Code of Federal Regulations, Part 23 (28 CFR 23).
- (d) Informants shall be directed not to:
 - 1. Assume a leadership position or intentionally cause dissension within an organization;
 - 2. Initiate, propose or suggest, encourage, or incite criminal acts or plans to commit criminal acts;
 - 3. Use unlawful techniques to obtain information;
 - 4. Participate in acts of violence or unlawful acts; or
 - 5. Attend meetings or engage in other activities for the purpose of obtaining legally-privileged information, such as confidential sources of reporters, attorney-client communications or physician-patient communications.

430.6.4 VIDEOTAPING

Videotaping is a useful tool with which to gather evidence in criminal cases and non-criminal civil complaints against the City. It is often difficult to ascertain whether criminal activity is going to break out during a protest, march, or during other protected First Amendment related activities. Additionally, due to the contentious nature of many of these events, there is often City liability involved, or the potential for allegations of police misconduct. Videotaping these events serves to protect both the City and the various constituents involved in these events. As such the Berkeley Police Department will routinely videotape protests, marches and other acts of protected First Amendment related activities that occur in public places.

- (a) In the event that no criminal predicate exists, no discernable civil liability can be discovered, and no personnel complaint is received, the tapes, if they are maintained, will only be maintained as a training tool. Tape that is not used for training shall be destroyed within 90 days of the incident, unless such tape is requested to be preserved as part of a personnel complaint, civil or criminal investigation or case.
- (b) Whenever possible, the videotaping will occur in a manner that minimizes interference with people lawfully participating in First Amendment activity. Individuals shall not be singled out for videotaping or photographing because of their religious or political views.

Intelligence Procedures for First Amendment Activities

430.7 DEMONSTRATIONS

The Police Department will not investigate or gather intelligence of a planned demonstration from non-open sources, unless there is reasonable suspicion that the demonstration will result in criminal activity rising to acts of violence, destruction of property or a threat to public safety. The anticipation of acts of non-violent civil disobedience alone, without an accompanying threat to public safety, shall not be a basis to investigate or gather intelligence of a planned demonstration, other than from open sources for purposes such as estimating the time, size and route of the demonstration.

430.8 INTELLIGENCE FILES

The creation of intelligence files when investigating individuals and groups involved in First Amendment protected activities where a criminal predicate, exists shall meet the below criteria.

- (a) An intelligence file will consist of analyzed data from sources ranging from "open source" to "confidential" (such as informants and classified reports). The only limits Title 28 CFR 23 places on data that may be analyzed are:
 - 1. It must be legally obtained
 - 2. It may not include information about political, religious or social views, associations or activities unless such information is related to definable criminal conduct or activity and the subject of the information is reasonably suspected of involvement in that conduct or activity.
 - 3. It is within the California Attorney General Guidelines.
- (b) Once data has been lawfully collected, it goes through several steps that will terminate in one of three results:
 - 1. Destruction of the data because there is no criminal predicate and no reasonable likelihood of developing a criminal predicate;
 - 2. Determination that, although no criminal predicate then exists or no person or group has yet been linked to the predicate, there is a reasonable likelihood that – within a reasonable time (the Department of Justice uses one year) evidence of the predicate or identity of the person or group will be available; or
 - 3. Retention of the data based on a criminal predicate.
- (c) An intelligence file shall not be opened for reasonable suspicion of non-violent civil disobedience that is only a misdemeanor and does not pose a threat to public safety.

430.8.1 INFORMATION ACCESS AND DISSEMINATION

Information Access and Dissemination: Those personnel authorized to access and disseminate criminal intelligence file information shall ensure that prior to disseminating or allowing access to criminal intelligence file information that the requestor has:

- (a) The Right to Know: Requester has the right to obtain intelligence information because of his or her status (e.g., a sworn member of a law enforcement agency) or pursuant to a court order, statute or case law, and

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- (b) **The Need to Know:** Requester has an articulated need to obtain specific intelligence information in order to execute official law enforcement responsibilities or because the court order, statute or case law establishes such a need to know.

Access should never be granted when a requester has satisfied only one of these criteria.

430.9 AUTHORIZATION

When possible, in all cases involving an investigation into individuals or groups exercising Constitutionally protected First Amendment activities, approval will be obtained from the Chief of Police, or in his/her absence a division captain, prior to the initiation of an investigation. An approval period will last for 90 days. Any investigation that continues for more than 90 days must receive approvals from the Chief of Police at every 90-day interval.

- (a) If it is impractical to obtain prior approval, the Chief of Police shall be notified in a timely manner. Investigations shall only be initiated, where there is reasonable suspicion of planned, on-going, or prior criminal activity.
- (b) The Chief of Police will notify the City Manager of all investigations that are covered by this policy.

430.9 AUDIT AND REPORTING

On an annual basis, the Chief of Police, or his/her designee, shall review the Department's files, records and documents to determine whether the Department is in compliance with these regulations. The Chief of Police shall prepare a confidential summary report to the City Manager regarding all investigations conducted by the Police Department pursuant to this policy.

The Chief of Police, or his/her designee, shall prepare a statistical report annually for the Police Review Commission that will include the following information:

- (a) The number of investigations authorized during the prior year;
- (b) The number of authorizations sought but denied;
- (c) The number of times that undercover officers were used;
- (d) The number of unlawful activities investigated;
- (e) Arrest and violation information for completed investigations; and
- (f) The number of requests for information from outside agencies for information relating to investigations conducted pursuant to this policy.

430.10 OUTSIDE AGENCIES

The Berkeley Police Department will only cooperate with outside agencies consistent with this policy, the California Attorney General's Criminal Intelligence Guidelines and Title 28 Code of Federal Regulations, Part 23. Officers will follow this policy at all times when engaged in cooperative efforts with another agency.

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DATE ISSUED: September 18, 2012

GENERAL ORDER C-1

SUBJECT: INTELLIGENCE PROCEDURES FOR FIRST AMENDMENT ACTIVITIES

PURPOSE

- 1 - The purpose of this General Order is to provide guidance regarding intelligence gathering procedures and maintenance of intelligence files. Additionally, this Order addresses the investigation of individuals and groups involved in First Amendment protected activities, and expressly limits such investigations to situations where a criminal predicate exists.

CONSTITUTIONAL RESTRICTION TO CRIMINAL ACTIVITY

- 2 - The United States and California Constitutions provide people with the right of: (1) privacy, (2) free expression, (3) and free association for any lawful purpose. The California Constitution expressly provides that "privacy" is an inalienable right. The First Amendment of the US Constitution prohibits the government from making a law establishing a religion or prohibiting the free exercise of religion, abridging freedom of speech or the press, or preventing people from peaceable assembly (e.g. marches and picketing).

While there are certain categories of speech that are not protected (i.e., fighting words, defamation, etc.), these exceptions are limited and have been narrowly construed.

- 3 - Under these constitutional restrictions, intelligence gathering by the Police Department is only permitted to investigate criminal activity. Intelligence gathering should not include political, religious, or social views or activities of individuals or groups, unless such views or activities directly relate to criminal conduct.

POLICY

- 4 - It is the policy of the Berkeley Police Department to ensure that the First Amendment and privacy rights guaranteed by the US and California Constitutions are protected for all individuals and groups, including the press, and to permit police involvement in the exercise of those rights only to the extent necessary to provide for the legitimate needs of law enforcement in investigating criminal activity.
- 5 - The Berkeley Police Department will obtain, maintain, and use information from legal, reliable sources to meet the needs of the Department and the City of Berkeley in carrying out its efforts to protect the public and suppress criminal activity. When the group or individual being investigated is involved in constitutionally protected First Amendment activity, the Department will ensure there is reasonable suspicion that a criminal predicate exists.

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- 6 - Officers involved in planning for, or responding to, any protest or event may utilize open source material and are encouraged to contact the individuals or groups organizing the public event in order to facilitate traffic control, crowd management, or other safety measures concerning the event. These measures would not be considered an investigation as defined by this order.
- 7 - The Berkeley Police Department recognizes its critical task in balancing the need for law enforcement in its efforts to protect the broader society, versus the need to safeguard individual rights guaranteed by a democratic process. At times, law enforcement may need to resort to the use of undercover operations, surveillance, and the use of informants to protect the public from groups espousing violence and/or wanton destruction of property.

FEDERAL AND STATE GUIDELINES

- 8 - The guidelines of this policy are based largely on the Californian Attorney General's Criminal Intelligence Guidelines, revised November 2007 and Title 28 Code of Federal Regulations, Part 23 (28 CFR 23). To the extent this Order is more restrictive than the Attorney General's guidelines or 28 CFR 23, this Order must be adhered to.

DEFINITIONS

- 9 - **Criminal Predicate:** The standard by which the determination as to whether information may be used to create an intelligence file is made. It means that there exists a "reasonable suspicion" based on the analysis of legally obtained information that the subject of the information is or may be involved in definable criminal conduct and/or activity that supports, encourages, or otherwise aids definable criminal conduct. For the purposes of this order, infraction violations will not be considered sufficient to establish a criminal predicate. The underlying offense must amount to a misdemeanor or felony.
- 10 - **Reasonable Suspicion:** Information which, when viewed in its totality, leads a person with appropriate training, specialized knowledge, and/or experience to conclude that a person, association of persons, or organization is involved in definable criminal conduct and/or activity that supports, encourages, or otherwise aids definable criminal conduct.
- 11 - **Open Source:** An Open Source is any source of news or information that could normally be accessed by any member of the public. Examples include the television news, newspapers, speeches at any public gathering or event, the Internet, the public in the form of casual conversations and information brought forward during routine contacts, the radio, billboards, and flyers. Open Source information does not include meetings, such as planning meetings or closed-door

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meetings, where First Amendment protected activities are involved, unless the officers are in uniform and have been invited or are otherwise in a place they have a lawful right to be.

- 12 - **Informant:** Informants are non-law enforcement, non-City employees who are specifically gathering information on behalf of the Berkeley Police Department and at the request of the Berkeley Police Department.
- 13 - **Videotaping:** Videotaping, for the purposes of this order, means the videotaping (whether surreptitious or in plain sight) of individuals or groups involved in First Amendment related activities.

INTELLIGENCE GATHERING

- 14 - **Open Sources:**
 - (a) Open Source information can be accessed at any time by any member of the Department without reporting requirements, unless otherwise required outside of this policy. Accessing open source information does not constitute an investigation as defined by this policy. However, files on groups or organizations containing open source material shall not be created and maintained, absent a criminal predicate.
 - (b) Open Source information should be validated in compliance with the California Attorney General's Criminal Intelligence Guidelines and Title 28 Code of Federal Regulations, Part 23 (28 CFR 23).
- 15 - **Use of Plainclothes Officers:**
 - (a) **Where the activity is First Amendment related, plainclothes officers may only be used where there is a reasonable suspicion of criminal activity arising to acts of violence, destruction of property, or a threat to public safety.** Plainclothes officers may also be utilized within crowds in public places involved in First Amendment related activities, but only in order to determine the best response for Police to safely address traffic-related issues because they would potentially be in danger even in uniform. In this situation, the plainclothes officers would not be gathering any specific information about the group or individuals, unless criminal activity occurred, just general information such as direction of travel, crowd size estimates, and destination.
 - (1) Plainclothes officers shall not be utilized at meetings, such as planning meetings or closed-door meetings where First Amendment related activities are involved, except as noted above.
 - (2) Use of plainclothes officers at planning-meetings, or closed-door meetings where First Amendment related activities are involved

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shall require prior approval of the Chief of Police.

- (3) Plainclothes officers shall not, in any circumstance:
 - (i) Participate in acts of violence or unlawful acts
 - (ii) Use unlawful techniques to obtain information
 - (iii) Initiate, propose or suggest, encourage, or incite criminal acts or plans to commit criminal acts
 - (iv) Assume a leadership position or intentionally cause dissension within an organization
 - (v) Attend meetings or engage in other activities for the purpose of obtaining legally-privileged information, such as confidential sources of reporters, attorney-client communications, or physician-patient communications

16 - **Use of Informants:** Informants may be utilized in First Amendment related activities where there is reasonable suspicion of criminal activity arising to acts of violence, destruction of property, or a threat to public safety.

- (a) Informants shall not be utilized at meetings, such as planning meetings or closed-door meetings where First Amendment related activities are involved, except as noted above.
- (b) Use of informants where First Amendment related activities are involved would require prior approval of the Chief of Police and reasonable suspicion of a criminal predicate.
- (c) Information from informants should be validated in compliance with the California Attorney General's Criminal Intelligence Guidelines and Title 28 Code of Federal Regulations, Part 23 (28 CFR 23).
- (d) Informants shall be directed not to:
 - (1) Participate in acts of violence or unlawful acts
 - (2) Use unlawful techniques-to obtain information
 - (3) Initiate, propose or suggest, encourage, or incite criminal acts or plans to commit criminal acts
 - (4) Assume a leadership position or intentionally cause dissension within an organization

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- (5) Attend meetings or engage in other activities for the purpose of obtaining legally-privileged information, such as confidential sources of reporters, attorney-client communications, or physician-patient communications

17 - **Videotaping:** Videotaping is a useful tool with which to gather evidence in criminal cases and non-criminal civil complaints against the City. It is often difficult to ascertain whether criminal activity is going to break out during a protest, march, or during other protected First Amendment related activities. Additionally, due to the contentious nature of many of these events, there is often City liability involved, or the potential for allegations of police misconduct. Videotaping these events serves to protect both the City and the various constituents involved in these events. As such the Berkeley Police Department will routinely videotape protests, marches and other acts of protected First Amendment related activities that occur in public places.

- (a) In the event that no criminal predicate exists, no discernible civil liability can be discovered, and no personnel complaint is received, the tapes, if they are maintained, will only be maintained as a training tool. Tape that is not used for training shall be destroyed within 90 days of the incident, unless such tape is requested to be preserved as part of a personnel complaint, civil or criminal investigation or case.
- (b) Whenever possible, the videotaping will occur in a manner that minimizes interference with people lawfully participating in First Amendment activity. Individuals shall not be singled out for videotaping or photographing because of their religious or political views.

DEMONSTRATIONS

18 - The Police Department will not investigate or gather intelligence of a planned demonstration from non-open sources, unless there is reasonable suspicion that the demonstration will result in criminal activity rising to acts of violence, destruction of property, or a threat to public safety. The anticipation of acts of non-violent civil disobedience alone, without an accompanying threat to public safety, shall not be a basis to investigate or gather intelligence of a planned demonstration, other than from open sources for purposes such as estimating the time, size, and route of the demonstration.

INTELLIGENCE FILES

19 - Intelligence Files are covered by this Order. The creation of intelligence files when investigating individuals and groups involved in First Amendment protected activities where a criminal predicate exists, shall meet the below criteria.

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However, an intelligence file shall not be opened for reasonable suspicion of non-violent civil disobedience that is only a misdemeanor and does not pose a threat to public safety.

(a) An intelligence file will consist of analyzed data from sources ranging from "open source", as defined in paragraph 11, to "confidential" (such as informants and classified reports). The only limits Title 28 CFR 23 places on data that may be analyzed are:

(1) It must be legally obtained.

(2) Title 28 CFR 23 states that an intelligence file may not include information about political, religious or social views, associations or activities unless such information is related to definable criminal conduct or activity and the subject of the information is reasonably suspected of involvement in that conduct or activity.

(3) **The California Attorney General Guidelines.**

(b) Once data has been lawfully collected, it goes through several steps that will terminate in one of three results:

(1) Destruction of the data because there is no criminal predicate

(2) Destruction of the data after five years because there is no longer a criminal predicate at that time

(3) Retention of the data based on a criminal predicate.

20 - Information Access and Dissemination: Those personnel authorized to access and disseminate criminal intelligence file information shall insure that prior to disseminating or allowing access to criminal intelligence file information that the requestor has:

(a) The Right to Know: Requester has the right to obtain intelligence information because of his or her status (e.g., a sworn member of a law enforcement agency) or pursuant to a court order, statute, or case law.

(b) Need to Know: Requester has an articulated need to obtain specific intelligence information in order to execute official law enforcement responsibilities or because the court order, statute; or case law establishes such a need to know.

(c) Access should never be granted when a requester has satisfied only one of these criteria.

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AUTHORIZATION

- 21 - When possible, in all cases involving an investigation into individuals or groups exercising Constitutionally protected First Amendment activities, approval will be obtained from the Chief of Police, or in his/her absence a division commander, prior to the initiation of an investigation. An approval period will last for 90 days. Any investigation that continues for more than 90 days must receive approvals from the Chief of Police at every 90-day interval.
- (a) If it is impractical to obtain prior approval, the Chief of Police shall be notified in a timely manner. Investigations shall only be initiated, where there is reasonable suspicion of planned, on-going, or prior criminal activity.
 - (b) The Chief of Police will notify the City Manager of all investigations that are covered by this order.

OUTSIDE AGENCIES

- 22 - The Berkeley Police Department will only cooperate with outside agencies consistent with this policy, the California Attorney General's Criminal Intelligence Guidelines and Title 28 Code of Federal Regulations, Part 23. Officers will follow this policy at all times when engaged in cooperative efforts with another agency.

AUDIT AND REPORTING

- 23 - On an annual basis, the Chief of Police shall review the Department's files, records and documents to determine whether the Department is in compliance with these regulations. The Chief of Police shall prepare a confidential summary report to the City Manager regarding all investigations conducted by the Police Department pursuant to this order.
- 24 - The Chief of Police shall prepare a statistical report annually for the Police Review Commission that will include the following information:
- (a) The number of investigations authorized during the prior year;
 - (b) The number of authorizations sought but denied;
 - (c) The number of times that undercover officers were used;
 - (d) The number of unlawful activities investigated;
 - (e) Arrest and violation information for completed investigations;
 - (f) The number of requests for information from outside agencies for

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information relating to investigations conducted pursuant to this order.

References: 28 Code of Federal Regulations, Part 23
California Attorney General's Criminal Intelligence File Guidelines, Office
of the Attorney General, California Department of Justice, Division of Law
Enforcement Criminal Intelligence Bureau, November 2007.

Situational Awareness Group

436.1 PURPOSE AND SCOPE

The purpose of this policy is to set forth procedures regarding the collection, analysis, retention, dissemination and disposition of criminal intelligence by the Berkeley Police Department Situational Awareness Group (SAG).

Criminal intelligence shall be handled in a manner that ensures the legality and integrity of the process and safeguards the constitutional rights of individuals, groups, associations, and other legal entities.

This policy also describes the purpose and structure of SAG.

436.2 DEFINITIONS

The following terms pertaining to this policy are defined:

Criminal Intelligence: Information compiled, analyzed and/or disseminated in an effort to anticipate, prevent, or monitor criminal and/or terrorism related activity.

Criminal intelligence system - Any record system that receives, stores, exchanges or disseminates information that has been evaluated and determined to be relevant to the identification of a criminal organization or enterprise, its members or affiliates. This does not include temporary information files.

Strategic Intelligence: Information concerning existing patterns or emerging trends of criminal activity designed to assist in criminal apprehension and crime control strategies, for both long and short-term investigative goals.

Gang: An ongoing association, organization, or group of three or more persons who have a common interest and/or activity characterized by the commission of or the involvement in a pattern of criminal or delinquent conduct.

Gang Intelligence: Information gathered, analyzed or disseminated of potential and validated gang members and their organizations.

Tactical Intelligence: Information regarding specific criminal events that can be used immediately by officers to further a criminal investigation, plan tactical operations and provide for officer safety.

Suspected Criminals: Persons whose conduct and actions would lead a reasonable and prudent law enforcement officer, based on personal knowledge or information from a reliable source, to believe that the person is probably engaged, or planning to engage, in criminal activity.

Known Criminal Offender: Person who has been arrested for a criminal offense. A Person whose criminal conduct has been verified through personal knowledge of a member of the Department, or through a reliable information source.

Reasonable Suspicion of Criminal Activity: "Reasonable suspicion" is present when sufficient facts are established to give a trained law enforcement officer a particularized and objective basis to believe that there is a reasonable possibility that an individual or organization is involved in a definable criminal enterprise or activity.

Criminal Intelligence File: Criminal intelligence information that has been collected, processed and retained in an informational file or database, and that may be shared within the law enforcement community.

Processing: When a Situational Awareness Group (SAG) officer establishes, maintains or updates a criminal intelligence file or database to ensure accuracy, security and proper dissemination of criminal intelligence.

Analysis: When a SAG officer obtains, researches and interprets criminal information from various sources to identify, disrupt, arrest and prosecute habitual offenders.

Dissemination: The product of analysis can be disseminated in verbal or written form. A SAG officer exchanges criminal intelligence to other bureaus and details within the Department, along with other allied agencies that have a need to know, in an effort to work collaboratively towards a common crime suppression goal.

436.3 POLICY

It is the policy of the Berkeley Police Department to lawfully and appropriately collect, analyze, retain, and disseminate criminal intelligence for the purpose of carrying out efforts to protect the public and suppress criminal activities.

All Department personnel shall adhere to guidelines established in this policy to ensure the security, confidentiality, proper maintenance and dissemination of criminal intelligence.

SAG has primary responsibility for the processing and handling of criminal intelligence.

436.4 GROUP PURPOSE

SAG will provide support to all functions of the Berkeley Police Department and maintain working relationships with surrounding allied agencies and courts in order to maximize the sharing of criminal intelligence. The mission of SAG is to support criminal investigations and enhance officer safety within the Berkeley Police Department. SAG will gather, analyze, retain and disseminate criminal intelligence to aid patrol and investigative personnel.

436.5 GROUP STRUCTURE

The Situational Awareness Group (SAG) is comprised of three groups:

1. the Terrorism Liaison Officers (TLO) Group,

2. the Gang Information Group (GIG), and

~~4.3.~~ Criminal intelligence group Group (TSG).

SAG is under the command of the Operations Division Captain. The Operations Division Captain will designate an Operations Division Lieutenant to provide functional command of the SAG, along with the additional duty as the NCRIC TLO Coordinator. The Operations Division Captain will also designate an Operations Division Sergeant to serve as the SAG Sergeant who will be second in command.

The structure of each SAG group is as follows:

(a) Terrorism Liaison Officers (TLO) Group: TLO Officers or Sergeants will work under the supervision of the SAG Sergeant. TLO Officers have received training in the identification, handling and reporting of potential terrorism related incidents. TLO's will be available as a resource for Suspicious Activity Reports related incidents.

(b) Gang Information Group (GIG): GIG Officers or Sergeants will work under the supervision of the SAG Sergeant. Officers or Sergeants assigned to the GIG will have specialized gang knowledge and training with a particular focus in one of the identified gangs in our area. All GIG Officers will gain expertise in gang member investigations through training and on the job experience. GIG Officers will attend local and regional gang task force meetings upon approval of the SAG chain of command.

(b)(c) Technical Support Group (TSG): TSG Officers or Sergeants will work under the SAG Sergeant. They will have expertise in technology and medial that relate to criminal activities. TSG members will assist TLO, GIG, and BPD personnel in the use of and access to technology and media as requested for criminal intelligence or investigation.

Members of SAG will be selected by the Operations Division Captain or his/her designee with final approval made by the Chief of Police. The format for the selection process of SAG Officers is also at the discretion of the Operations Division Captain.

Membership in SAG is an ancillary duty to the officer's regular assignment.

436.6 SAG LIEUTENANT DUTIES

The SAG Lieutenant, or their designee, is responsible for the following:

(a) Ensuring the procedures and processes of the SAG are followed regularly and reviewed at least annually.

(b) Ensuring all SAG personnel maintain current training on Local, State and Federal standards regarding the procedures and processes of dealing with criminal intelligence information.

(c) Coordinating criminal intelligence files.

(d) Ensuring the Operations Division Captain is informed of any criminal intelligence or SAG investigation that deals with a threat where the community, city, or any officer is at risk.

436.7 SAG SERGEANT DUTIES

The SAG Sergeant, or their designee, is responsible for the following:

- (a) Coordinating and overseeing the entering of criminal intelligence into a file or computerized information file.
- (b) Ensuring group personnel attend continuing education pertaining to their group duties.
- (c) Providing periodic training to department personnel regarding areas of expertise within the group.
- (d) Maintaining a file of criminal intelligence that comes into the Department. The file shall contain information received from Department sources, allied agencies, and citizens. This file shall be secure and available on a need to know basis to persons requesting the information.
- (e) Preparing, upon request and periodically a monthly report to the SAG Lieutenant regarding the status of active investigations that TLO or Gang Information Group (GIG) members are actively investigating or supporting.

436.8 TLO AND GIG PERSONNEL DUTIES

The TLO and GIG personnel are responsible for the following:

- (a) The collection, processing, analysis, and dissemination of criminal intelligence concerning activities within the City of Berkeley.
- (b) The review of police reports, including but not limited to those of the Berkeley Police Department, ~~police reports~~, to glean information for analysis and maintain necessary notes or documentation for later processing, analysis and dissemination.
- (c) The collection, processing, analysis, entering and dissemination of information by SAG personnel shall be done in compliance with all guidelines set forth by 28 Code of Federal Regulations Part 23, and the First Amendment Assemblies policy ~~General Order C-1~~.
- (d) Proactively ~~assistings-~~ with investigations upon explicit request from the handling officer, Detective Bureau, Special Enforcement Unit, or other department personnel. All such requests will be reported to the SAG chain of command.

436.9 CRIMINAL INTELLIGENCE HANDLING

The Department shall ~~only collect or~~ maintain criminal intelligence concerning an individual or organization only if there is reasonable suspicion that the individual or organization is involved in criminal conduct or activity and the information is relevant to that criminal conduct or activity. The existence of reasonable suspicion will be based on specific, articulable facts that will be documented in the criminal intelligence file. Criminal intelligence files shall be maintained by the SAG Lieutenant or his/her designee. Criminal intelligence files as described in this policy order are separate from Confidential Reliable Informant files maintained by the Special Investigations Bureau as described in the Informant Policy.

The SAG shall review all information received to determine the accuracy of the information and ensure that it relates to criminal conduct or activities that present a potential threat to the community prior to including this information in the criminal intelligence files.

436.10 CRIMINAL INTELLIGENCE FILES

Files include information regarding individuals who:

1. are suspected of being or having been involved in the actual or attempted planning, organizing, financing, or commission of criminal acts, or
2. are suspected of being or having been involved in criminal activities with known or suspected crime figures

Files include information regarding organizations, businesses, or groups that:

1. are suspected of being or having been involved in the actual or attempted planning, organizing, or commission of criminal acts, or
2. are suspected of being or having been illegally operated, controlled, financed, or infiltrated by known or suspected crime figures; or
3. use illegal activities and/or enterprises as a principal means to obtain resources, support for their existence, or further their organizational goals.

No intelligence data will be gathered, collected, or maintained on religious, political, racial, ethnic, sexual, or any other constitutionally protected status or activity which does not relate to criminal conduct or suspect identification and associations with individuals, which may be of a criminal nature.

436.11 AUTHORIZED CRIMINAL INTELLIGENCE

~~(a) The Criminal Intelligence File provides for the addition, deletion, or updating of the following information:~~

- ~~1. Case Number~~
- ~~2. Reporting Officer~~
- ~~3. Date of Entry~~
- ~~4. Offense Location~~
- ~~5. Offense Description~~
- ~~6. Names, Addresses, Identifying Information and other Physical Descriptors~~
- ~~7. Aliases~~
- ~~8. Vehicle Information~~
- ~~9. Narrative~~
- ~~10. Evidence~~

Criminal intelligence activities performed by the Berkeley Police Department shall include:

- 10.1. The gathering of information from confidential informants, other reliable sources, and sources of unknown reliability.
- 11.2. Analyzing the value, quality, and reliability of information received.
- 12.3. Dissemination of the information to the appropriate Departmental personnel.
- 13.4. Dissemination of the information to allied law enforcement agencies.

Information sources must be protected to maintain their reliability, safety, and future usefulness. All policies and procedures set forth in the Informants policy ~~General Order D-4~~ must be adhered to.

To ensure the protection of innocent persons, it is imperative that the legality and integrity of the Department's intelligence effort be continually monitored for compliance by the Operations Division Captain.

~~(I) Criminal Intelligence will be submitted to the SAG for potential inclusion into the intelligence files by the following methods:~~

- ~~13. Memorandum~~
- ~~14. Field Interview Card~~
- ~~15. Police Report~~
- ~~16. E-mail~~
- ~~17. Telephone~~
- ~~18. Police Radio~~
- ~~19. Verbal~~

436.20436.12 RETENTION AND PURGING OF CRIMINAL INTELLIGENCE:

1. Criminal intelligence may be retained for up to five (5) years for adults and two (2) years for juveniles. At that time, criminal intelligence will be purged unless new criminal intelligence has been developed establishing reasonable suspicion that the individual and/or organization continues to be involved in a definable criminal activity or enterprise.
2. Criminal intelligence may be entered into temporary criminal intelligence files when there is reasonable suspicion of criminal activity, but that finding is based, in part, upon "unproven" or "unknown" sources, or where the content reliability of the information is "unknown" or "undetermined". All temporary criminal intelligence files shall be specifically designated as such and must be reviewed by SAG personnel every sixty (60) days for validity. Temporary criminal intelligence files shall be retained no longer than one (1) year. At that time, a temporary file must be either purged or converted into a permanent criminal intelligence file. All temporary files must be kept distinctly separate from the general criminal intelligence files.

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3. The SAG Lieutenant shall ensure out-of-date criminal intelligence is purged from the file in accordance with federal and state guidelines.
 4. Documents within the criminal intelligence files shall be reviewed in an on-going basis to ascertain whether a higher degree or lesser degree of document security is required and to ensure that information is released only when appropriate. Any information received and entered into any criminal intelligence file must have the source and content reliability verified.

436.21436.13 RELEASE OF CRIMINAL INTELLIGENCE INFORMATION :

1. SAG personnel shall organize and analyze criminal intelligence information received, and shall prepare and release criminal intelligence reports to various Departmental units and allied agencies on a need/right to know basis only.
2. Criminal intelligence may not be released if the disclosure of such information:
 3. Interferes with an active investigation
 4. Constitutes an invasion of privacy
 5. Discloses the identity of a confidential source
 6. Discloses a confidential investigation technique or procedure
 7. Endangers the life or safety of a law enforcement officer

436.22436.14 OUTSIDE AGENCIES

The Berkeley Police Department will only cooperate with outside agencies consistent with this policy, the California Attorney General's Criminal Intelligence Guidelines and Title 28 Code of Federal Regulations, Part 23. Officers will follow this policy at all times when engaged in cooperative efforts with another agency.

436.23436.15 SECURITY PROCEDURES

Criminal Intelligence files shall be secured, or in the event of computer files, shall be password protected. The files and databases will be secured during off-duty hours and when SAG personnel are away from their work station.

- (a) Access to Criminal Intelligence Files for the purpose of adding, deleting, or modifying information shall be restricted to:
 1. SAG Personnel
 2. Other personnel authorized by the Chief of Police
- (b) Access to Criminal Intelligence Files for read only access is granted to:
 1. Operations Division Captain
 2. Other personnel authorized by the Operations Division Captain

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- (c) Computer access to Criminal Intelligence Information shall be available only to Department employees who have been trained and have security authorization to access the Criminal Intelligence Files.

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SUBJECT: SITUATIONAL AWARENESS GROUP

PURPOSE

- 1 - The purpose of this General Order is to set forth procedures regarding the collection, analysis, retention, dissemination and disposition of criminal intelligence by the Berkeley Police Department Situational Awareness Group (SAG).

Criminal intelligence shall be handled in a manner that ensures the legality and integrity of the process and safeguards the constitutional rights of individuals, groups, associations, and other legal entities.

This policy also describes the purpose and structure of the Situational Awareness Group.

POLICY

- 2 - It is the policy of the Berkeley Police Department to lawfully and appropriately collect, analyze, retain, and disseminate criminal intelligence for the purpose of carrying out efforts to protect the public and suppress criminal activities.
- 3 - All Department personnel shall adhere to guidelines established in this policy to ensure the security, confidentiality, proper maintenance and dissemination of criminal intelligence.
- 4 - The Situational Awareness Group has primary responsibility for the processing and handling of criminal intelligence.

DEFINITIONS

- 5 - The following terms pertaining to this policy are defined:
 - (a) Criminal Intelligence: Information compiled, analyzed and/or disseminated in an effort to anticipate, prevent, or monitor criminal and/or terrorism related activity.
 - (b) Strategic Intelligence: Information concerning existing patterns or emerging trends of criminal activity designed to assist in criminal apprehension and crime control strategies, for both long and short-term investigative goals.
 - (c) Gang: An ongoing association, organization, or group of three or more persons who have a common interest and/or activity characterized by the commission of or the involvement in a pattern of criminal or delinquent conduct.
 - (d) Gang Intelligence: Information gathered, analyzed or disseminated of potential and validated gang members and their organizations.

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- (e) Tactical Intelligence: Information regarding specific criminal events that can be used immediately by officers to further a criminal investigation, plan tactical operations and provide for officer safety.
- (f) Suspected Criminals: Persons whose conduct and actions would lead a reasonable and prudent law enforcement officer, based on personal knowledge or information from a reliable source, to believe that the person is probably engaged, or planning to engage, in criminal activity.
- (g) Known Criminal Offender: Person who has been arrested for a criminal offense. A Person whose criminal conduct has been verified through personal knowledge of a member of the Department, or through a reliable information source.
- (h) Reasonable Suspicion of Criminal Activity: "Reasonable suspicion" is present when sufficient facts are established to give a trained law enforcement officer a particularized and objective basis to believe that there is a reasonable possibility that an individual or organization is involved in a definable criminal enterprise or activity.
- (i) Criminal Intelligence File: Criminal intelligence information that has been collected, processed and retained in an informational file or database, and that may be shared within the law enforcement community.
- (j) Processing: When a Situational Awareness Group (SAG) officer establishes, maintains or updates a criminal intelligence file or database to ensure accuracy, security and proper dissemination of criminal intelligence.
- (k) Analysis: When a SAG officer obtains, researches and interprets criminal information from various sources to identify, disrupt, arrest and prosecute habitual offenders.
- (l) Dissemination: The product of analysis can be disseminated in verbal or written form. A SAG officer exchanges criminal intelligence to other bureaus and details within the Department, along with other allied agencies that have a need to know, in an effort to work collaboratively towards a common crime suppression goal.

PROCEDURES

Situational Awareness Group Purpose

- 6 - The Situational Awareness Group will provide support to all functions of the Berkeley Police Department and maintain working relationships with surrounding allied agencies and courts in order to maximize the sharing of criminal intelligence. The mission of the Situational Awareness Group is to support criminal investigations and enhance officer safety within the Berkeley Police Department. The Situational Awareness Group will gather, analyze, retain and

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disseminate criminal intelligence to aid patrol and investigative personnel.

Situational Awareness Group Structure

7 - The Situational Awareness Group is under the Command of the Operations Division Captain. The Operations Division Captain will designate an Operations Division Lieutenant to provide functional command of the SAG, along with the additional duty as the NCRIC TLO Coordinator. The Operations Division Captain will also designate an Operations Division Sergeant to serve as the SAG Sergeant who will be second in command under the SAG Lieutenant.

(a) SAG Lieutenant Duties:

- (1) Responsible for ensuring the procedures and processes of the SAG are followed regularly and reviewed at least annually.
- (2) Responsible for ensuring all SAG personnel maintain current training on Local, State and Federal standards regarding the procedures and processes of dealing with criminal intelligence information.
- (3) The administration and coordination of criminal intelligence files. The SAG Lieutenant may designate the SAG Sergeant with the responsibility of overall file coordination.
- (4) Responsible for ensuring the Operations Division Captain is informed of any criminal intelligence or SAG investigation that deals with a threat where the community, city, or any officer is at risk.

(b) SAG Sergeant Duties:

- (1) Responsible for coordinating and overseeing the entering of all criminal intelligence received and/or developed into a file or computerized information file.
- (2) Ensure group personnel attend continuing education pertaining to their group duties.
- (3) Provide periodic training to department personnel regarding areas of expertise within the group.
- (4) Maintain a file of criminal intelligence that comes into the Department. The file shall contain information received from Department sources, allied agencies, and citizens. This file shall be secure and available on a need to know basis to persons requesting the information.
- (5) Prepare a monthly report to the SAG Lieutenant regarding the status of active investigations that TLO or Gang Information Group (GiG) members are actively investigating or supporting.

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(6) See General Order N-17 for further details regarding Supervisor responsibilities.

(c) Duties of TLO and GIG Personnel:

(1) Responsible for the collection, processing, analysis, and dissemination of criminal intelligence concerning activities within the City of Berkeley.

(2) Review of police reports, including but not limited to Berkeley Police Department police reports, to glean information for analysis and maintain necessary notes or documentation for later processing, analysis and dissemination.

(3) The collection, processing, analysis, entering and dissemination of information by SAG personnel shall be done in compliance with all guidelines set forth by 28 Code of Federal Regulations Part 23, and General Order C-1.

(4) Proactively assists with investigations upon explicit request from the handling officer, Detective Bureau, Special Enforcement Unit, or other department personnel. All such requests will be reported to the SAG chain of command.

8 - The SAG is comprised of the Terrorism Liaison Group and the Gang Information Group.

(a) Terrorism Liaison Officers (TLO) Group: TLO Officers or Sergeants will work under the supervision of the SAG Sergeant. TLO Officers have received training in the identification, handling and reporting of potential terrorism related incidents. TLO's will be available as a resource for Suspicious Activity Reports related incidents. See General Order N-17 for further details regarding TLO responsibilities.

(b) Gang Information Group (GIG): GIG Officers or Sergeants will work under the supervision of the SAG Sergeant. Officers or Sergeants assigned to the GIG will have specialized gang knowledge and training with a particular focus in one of the identified gangs in our area. All GIG Officers will gain expertise in gang member investigations through training and on the job experience. GIG Officers will attend local and regional gang task force meetings upon approval of the SAG chain of command.

9 - Members of the Terrorism Liaison Officer Group and the Gang Information Group will be selected by the Operations Division Captain or his/her designee with final approval made by the Chief of Police. The format for the selection process of TLO or GIG Officers is also at the discretion of the Operations Division Captain.

10 - Membership in either the TLO or GIG Groups is an ancillary duty to the officer's regular assignment.

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Criminal Intelligence Handling

- 11 - The Department shall only collect or maintain criminal intelligence concerning an individual or organization if there is reasonable suspicion that the individual or organization is involved in criminal conduct or activity and the information is relevant to that criminal conduct or activity. The existence of reasonable suspicion will be based on specific, articulable facts that will be documented in the criminal intelligence file. Criminal intelligence files shall be maintained by the SAG Lieutenant or his/her designee. Criminal intelligence files as described in this order are separate from Confidential Reliable Informant files maintained by the Special Investigations Bureau as described in General Order D-4.
- 12 - The SAG shall review all information received to determine the accuracy of the information and ensure that it relates to criminal conduct or activities that present a potential threat to the community prior to including this information in the criminal intelligence files.
 - (a) Criminal Intelligence Files include information regarding:
 - (1) Individuals who:
 - i. are suspected of being or having been involved in the actual or attempted planning, organizing, financing, or commission of criminal acts, or
 - ii. are suspected of being or having been involved in criminal activities with known or suspected crime figures
 - (2) Organizations, businesses, or groups that:
 - i. are suspected of being or having been involved in the actual or attempted planning, organizing, or commission of criminal acts, or
 - ii. are suspected of being or having been illegally operated, controlled, financed, or infiltrated by known or suspected crime figures; or
 - iii. use illegal activities and/or enterprises as a principal means to obtain resources, support for their existence, or further their organizational goals.
 - (3) No intelligence data will be gathered, collected, or maintained on religious, political, racial, ethnic, sexual, or any other constitutionally protected status or activity which does not relate to criminal conduct or suspect identification and associations with individuals, which may be of a criminal nature.

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(b) Authorized Criminal Intelligence:

(1) The Criminal Intelligence File provides for the addition, deletion, or updating of the following information:

- i. Case Number
- ii. Reporting Officer
- iii. Date of Entry
- iv. Offense Location
- v. Offense Description
- vi. Names, Addresses, Identifying Information and other Physical Descriptors
- vii. Aliases
- viii. Vehicle Information
- ix. Narrative
- x. Evidence

13 - Criminal intelligence activities performed by the Berkeley Police Department shall include:

- (a) The gathering of information from confidential informants, other reliable sources, and sources of unknown reliability.
- (b) Analyzing the value, quality, and reliability of information received.
- (c) Dissemination of the information to the appropriate Departmental personnel.
- (d) Dissemination of the information to allied law enforcement agencies.

14 - Information sources must be protected to maintain their reliability, safety, and future usefulness. All policies and procedures set forth in General Order D-4 must be adhered to.

15 - To ensure the protection of innocent persons, it is imperative that the legality and integrity of the Department's intelligence effort be continually monitored for compliance by the Operations Division Captain.

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- 16 - Criminal Intelligence will be submitted to the SAG for potential inclusion into the intelligence files by the following methods:
- (a) Memorandum
 - (b) Field Interview Card
 - (c) Police Report
 - (d) E-mail
 - (e) Telephone
 - (f) Police Radio
 - (g) Verbal
- 17 - Retention and Purging of Criminal Intelligence:
- (a) Criminal intelligence may be retained for up to five (5) years for adults and two (2) years for juveniles. At that time, criminal intelligence will be purged unless new criminal intelligence has been developed establishing reasonable suspicion that the individual and/or organization continues to be involved in a definable criminal activity or enterprise.
 - (b) Criminal intelligence may be entered into temporary criminal intelligence files when there is reasonable suspicion of criminal activity, but that finding is based, in part, upon "unproven" or "unknown" sources, or where the content reliability of the information is "unknown" or "undetermined". All temporary criminal intelligence files shall be specifically designated as such and must be reviewed by SAG personnel every sixty (60) days for validity. Temporary criminal intelligence files shall be retained no longer than one (1) year. At that time, a temporary file must be either purged or converted into a permanent criminal intelligence file. All temporary files must be kept distinctly separate from the general criminal intelligence files.
 - (c) The SAG Lieutenant shall ensure out-of-date criminal intelligence is purged from the file in accordance with federal and state guidelines.
 - (d) Documents within the criminal intelligence files shall be reviewed in an on-going basis to ascertain whether a higher degree or lesser degree of document security is required and to ensure that information is released only when appropriate. Any information received and entered into any criminal intelligence file must have the source and content reliability verified.

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18 - Release of Criminal Intelligence Information:

- (a) SAG personnel shall organize and analyze criminal intelligence information received, and shall prepare and release criminal intelligence reports to various Departmental units and allied agencies on a need/right to know basis only.
- (b) Criminal intelligence may not be released if the disclosure of such information:
 - (1) Interferes with an active investigation
 - (2) Constitutes an invasion of privacy
 - (3) Discloses the identity of a confidential source
 - (4) Discloses a confidential investigation technique or procedure
 - (5) Endangers the life or safety of a law enforcement officer

19 - The Berkeley Police Department will only cooperate with outside agencies consistent with this policy, the California Attorney General's Criminal Intelligence Guidelines and Title 28 Code of Federal Regulations, Part 23. Officers will follow this policy at all times when engaged in cooperative efforts with another agency.

20 - Security Procedures:

- (a) Criminal Intelligence files shall be secured, or in the event of computer files, shall be password protected. The files and databases will be secured during off-duty hours and when SAG personnel are away from their work station.
- (b) Access to Criminal Intelligence Files for the purpose of adding, deleting, or modifying information shall be restricted to:
 - (1) SAG Personnel
 - (2) Other personnel authorized by the Chief of Police
- (c) Access to Criminal Intelligence Files for read only access is granted to:
 - (1) Operations Division Captain
 - (2) Other personnel authorized by the Operations Division Captain
- (d) Computer access to Criminal Intelligence Information shall be available only to Department employees who have been trained and have security authorization to access the Criminal Intelligence Files.

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- 21 - Criminal Intelligence provided to, or developed by the SAG will be processed in the following manner:
- (a) Tips from citizens pertaining to suspected suspicious behavior will be documented and developed to the point where there is no additional investigative leads to be pursued. The results will be kept in the SAG database.
 - (b) Operations Division Officers will do preliminary investigations as prescribed in General Order C-2. If the need arises for SAG officer involvement, the SAG officer shall assist in the investigation under the supervision of the Operations Division Supervisor.
 - (c) Should the information from the preliminary investigation become immediately actionable, Operations Supervisors will ensure the correct enforcement action is taken and the appropriate chain of command notifications are made. SAG officers must immediately report criminal intelligence that relates to a current investigation to the case officer.
 - (d) Should the information from the preliminary investigation require further investigation, SAG officers will ensure the information is given to the appropriate investigative unit in the department.
 - (e) If the preliminary investigation reveals information that requires submission to the Northern California Regional Intelligence Center (NCRIC), the SAG representative will prepare the information as a Suspicious Activity Report and notify the SAG chain of command for submission to NCRIC according to guidelines set forth in General Order N-17.
 - (f) Named criminal subjects will be documented on a Berkeley Police Subject Workup Sheet which includes identifying numbers and criminal records checks. A copy of this form will be submitted to the SAG Sergeant for inclusion into the SAG database.
 - (g) In situations where an arrest is made in which the follow-up responsibility goes to the Detective Bureau, the SAG officer shall inform both the initial handling officer and the responsible detective detail regarding the information that is SAG related. The SAG officer will serve in a support role if requested.

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- 22 - Gang Intelligence Officers may support gang related investigations according to the following:
- (a) GIG officers may be asked for assistance, or may offer assistance with criminal investigations which appear to be gang-related. Upon case officer approval, the GIG officer may support an investigation through sharing gang-related intelligence, preparation of predicate statements, and related activities supporting the successful investigation, charging and prosecution of gang-related crimes. GIG officers may not conduct investigations independently of the case officer.
 - (b) GIG officers tasked with writing gang enhancement predicates for crimes being investigated by the Berkeley Police Department shall do so under the supervision of the case officer's supervisor. This includes writing gang predicates for arrests later determined to be gang related. The involvement of the SAG member will be documented and retained by the SAG Lieutenant.
 - (c) In the event there is a conflict between SAG personnel and another department detail, bureau or unit in regards to case handling responsibilities, involved personnel must first attempt to resolve the conflict at the line level. If there is not an agreeable resolution, then both parties must advise their respective supervisors. SAG staff must seek remedy from a higher ranking officer in the SAG chain of command to resolve the dispute. In all cases, the case officer's Division Captain will have authority to dictate the final course of action at any level.

General

- 23 - Members of SAG will share criminal intelligence on a regular basis with the Department concerning on-going issues, threats or concerns through a departmental intelligence briefing on the Crime Forum, at Crime Analysis and Response Strategies (CARS) meetings and as needed at team briefings. Members of SAG must ensure the accuracy of the criminal intelligence shared. Members of SAG who present training courses related to their SAG duties must first seek approval from the Operations Division Captain.
- 24 - SAG personnel shall document the dissemination of any criminal intelligence to allied agencies in the Intelligence Dissemination Log maintained by the SAG Sergeant.

References: General Orders C-1, C-2, D-4 and N-17