

Police Review Commission meeting of Feb. 27, 2019

Agenda Item # 10.a.: Lexipol Policies for review and approval

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License to Carry a Firearm

207.1 PURPOSE AND SCOPE

The Chief of Police is given the statutory discretion to issue a license to carry a firearm to residents within the community (Penal Code § 26150; Penal Code § 26155). This policy will provide a written process for the application and issuance of such licenses. Pursuant to Penal Code § 26160, this policy shall be made accessible to the public.

207.1.1 APPLICATION OF POLICY

Nothing in this policy shall preclude the Chief or other head of a municipal police department from entering into an agreement with the Sheriff of the county or preclude the Sheriff of the county from entering into an agreement with the Chief of any municipal police department to process all applications and license renewals for the carrying of concealed weapons (Penal Code § 26150; Penal Code § 26155).

207.2 POLICY

The Berkeley Police Department will fairly and impartially consider all applications to carry firearms in accordance with applicable law and this policy.

207.3 QUALIFIED APPLICANTS

In order to qualify for a license to carry a firearm, the applicant must meet certain requirements, including:

- (a) Be a resident of the City of Berkeley (Penal Code § 26150; Penal Code § 26155).
- (b) Be at least 21 years of age (Penal Code § 29610).
- (c) Fully complete an application that will include substantial personal information. Much of the information in the application may be subject to public access under the Public Records Act.
- (d) Be free from criminal convictions that would disqualify the applicant from carrying a firearm. Fingerprints will be required and a complete criminal background check will be conducted.
- (e) Be of good moral character (Penal Code § 26150; Penal Code § 26155).
- (f) Show good cause for the issuance of the license (Penal Code § 26150; Penal Code § 26155).
- (g) Pay all associated application fees. These fees are set by statute and may not be refunded if the application is denied.
- (h) Provide proof of ownership or registration of any firearm to be licensed.
- (i) Be free from any psychological conditions that might make the applicant unsuitable for carrying a firearm (Penal Code § 26190).

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- (j) Complete required training (Penal Code § 26165).

207.4 APPLICATION PROCESS

The application process for a license to carry a firearm shall consist of two phases. Upon the successful completion of each phase, the applicant will advance to the next phase until the process is completed and the license is either issued or denied.

207.4.1 PHASE ONE (TO BE COMPLETED BY ALL APPLICANTS)

- (a) Any individual applying for a license to carry a firearm shall first fully complete a California Department of Justice (DOJ) application to be signed under penalty of perjury. Any applicant who provides false information or statements on the application will be removed from further consideration and may be prosecuted for a criminal offense (Penal Code § 26180).
1. In the event of any discrepancies in the application or background investigation, the applicant may be required to undergo a ~~polygraph examination~~ voice stress analysis, at no cost to the applicant.
 2. If an incomplete application package is received, the Chief of Police or authorized designee may do any of the following:
 - (a) Require the applicant to complete the package before any further processing.
 - (b) Advance the incomplete package to phase two for conditional processing pending completion of all mandatory conditions.
 - (c) Issue a denial if the materials submitted at the time demonstrate that the applicant would not qualify for a license to carry a firearm even if the package was completed (e.g., not a resident, disqualifying criminal conviction, absence of good cause).
- (b) At the time the completed application is submitted, the applicant shall submit a check made payable to the California Department of Justice for the required California DOJ application fee, along with a separate check made payable to the City of Berkeley for a nonrefundable 20 percent of the application fee to cover the cost of processing the application (Penal Code § 26190).
- (a) Additional fees may be required for fingerprinting, training or psychological testing, in addition to the application fee.
 - (b) Full payment of the remainder of the application fee will be required upon issuance of a license.
 - (c) Payment of related fees may be waived if the applicant is a duly appointed reserve peace officer as defined in Penal Code § 830.6 (a) or (b) (Penal Code § 26170).
- (c) The applicant shall be required to submit to fingerprinting and a complete criminal background check by the California DOJ. A second set of fingerprints may be required for retention in department files. Two recent passport-size photos (2 inches by 2 inches) of the

applicant shall be submitted for department use. No person determined to fall within a prohibited class described in Penal Code § 29800, Penal Code § 29900, Welfare and Institutions Code § 8100 or Welfare and Institutions Code § 8103 will be issued a license to carry a firearm. A license shall not be issued if the California DOJ determines that the applicant is prohibited by state or federal law from possessing, receiving, owning or purchasing a firearm (Penal Code § 26195).

- (d) The applicant should submit at least three signed letters of character reference from individuals other than relatives.
- (e) The applicant shall submit proof of ownership or registration of each firearm to be licensed.

Once the Chief of Police or authorized designee has reviewed the completed application package and relevant background information, the application will either be advanced to phase two or denied.

In the event that an application is denied at the conclusion of, or during, phase one, the applicant shall be notified in writing within 90 days of the initial application or within 30 days after receipt of the applicant's criminal background check from the California DOJ, whichever is later. If the license is denied, the notice shall state which requirement was not satisfied (Penal Code § 26205).

207.4.2 PHASE TWO

This phase is to be completed only by those applicants successfully completing phase one.

- (a) Upon successful completion of phase one, the applicant shall be scheduled for a personal interview with the Chief of Police or authorized designee. During this stage, there will be further discussion of the applicant's statement of good cause and any potential restrictions or conditions that might be placed on the license.
 1. The determination of good cause should consider the totality of circumstances in each individual case.
 2. Any denial for lack of good cause should be rational, articulable and not arbitrary in nature.
 3. The Department will provide written notice to the applicant as to the determination of good cause (Penal Code § 26202).
- (b) The Chief of Police may, based upon criteria established by the Chief of Police, require that the applicant be referred to an authorized psychologist used by the Department for psychological testing. The cost of such psychological testing (not to exceed \$150) shall be paid by the applicant. The purpose of any such psychological testing is intended only to identify any outward indications or history of psychological problems that might render the applicant unfit to carry a firearm. This testing is not intended to certify in any other respect that the applicant is psychologically fit. If it is determined that the applicant is not a suitable candidate for carrying a firearm, the applicant shall be removed from further consideration (Penal Code § 26190).

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- (c) The applicant shall complete a course of training approved by the department, which complies with Penal Code § 26165. The applicant will not be required to complete and pay for any training courses prior to any determination of good cause (Penal Code § 26165; Penal Code § 26202).
 - (d) The applicant shall submit any firearm to be considered for a license to the Personnel and Training Sergeant or other departmentally authorized gunsmith, at no cost to the applicant, for a full safety inspection. The Chief of Police reserves the right to deny a license for any firearm that has been altered from the manufacturer's specifications or that is unsafe (Penal Code § 31910).
 - (e) The applicant shall successfully complete a firearms safety and proficiency examination with the firearm to be licensed, to be administered by the department Personnel and Training Sergeant, or provide proof of successful completion of another department-approved firearms safety and proficiency examination, including completion of all releases and other forms. The cost of any outside inspection/examination shall be the responsibility of the applicant.

Once the Chief of Police or authorized designee has verified the successful completion of phase two, the license to carry a firearm will either be granted or denied.

Whether an application is approved or denied at the conclusion of or during phase two, the applicant shall be notified in writing within 90 days of the initial application or within 30 days after receipt of the applicant's criminal background check from the California DOJ, whichever is later. If the license is denied, the notice shall state which requirement was not satisfied (Penal Code § 26205).

207.5 LIMITED BUSINESS LICENSE TO CARRY A CONCEALED FIREARM

The authority to issue a limited business license to carry a concealed firearm to a non-resident applicant is granted only to the Sheriff of the county in which the applicant works. A chief of a municipal police department may not issue limited licenses (Penal Code § 26150). Therefore, such applicants may be referred to the Sheriff for processing.

An individual who is not a resident of the county but who otherwise successfully completes all portions of phases one and two above, may apply for and be issued a limited license subject to approval by the Sheriff and subject to the following:

- (a) The applicant physically spends a substantial period of working hours in the applicant's principal place of employment or business within the City of Berkeley (Penal Code § 26150).
- (b) Such a license will be valid for a period not to exceed 90 days from the date of issuance (Penal Code § 26220).
- (c) The applicant shall provide a copy of the license to the licensing authority of the city or county in which the applicant resides (Penal Code § 26220).

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- (d) Any application for renewal or reissuance of such a license may be granted only upon concurrence of the original issuing authority and the licensing authority of the city or county in which the applicant resides (Penal Code § 26220).

207.6 ISSUED FIREARMS PERMITS

In the event a license to carry a firearm is issued by the Chief of Police, the following shall apply:

- (a) The license will be subject to any and all reasonable restrictions or conditions the Chief of Police has deemed warranted, including restrictions as to the time, place, manner and circumstances under which the person may carry the firearm.
1. All such restrictions or conditions shall be conspicuously noted on any license issued (Penal Code § 26200).
 2. The licensee will be required to sign a Restrictions and Conditions Agreement. Any violation of any of the restrictions and conditions may result in the immediate revocation of the license.
- (b) The license shall be laminated, bearing a photograph of the licensee with the expiration date, type of firearm, restrictions and other pertinent information clearly visible.
1. Each license shall be numbered and clearly identify the licensee.
 2. All licenses shall be subjected to inspection by the Chief of Police or any law enforcement officer.
- (c) The license will be valid for a period not to exceed two years from the date of issuance (Penal Code § 26220).
1. A license issued to a state or federal magistrate, commissioner or judge will be valid for a period not to exceed three years.
 2. A license issued to any reserve peace officer as defined in Penal Code § 830.6(a) or (b), or a custodial officer employed by the Sheriff as provided in Penal Code § 831.5 will be valid for a period not to exceed four years, except that such license shall be invalid upon the individual's conclusion of service as a reserve officer.
- (d) If the licensee's place of residence was the basis for issuance of a license and the licensee moves out of the county of issuance, the license shall expire 90 days after the licensee has moved (Penal Code § 26210).
- (e) The licensee shall notify this department in writing within 10 days of any change of place of residency.

207.6.1 LICENSE RESTRICTIONS

- (a) The Chief of Police may place special restrictions limiting time, place, manner and circumstances under which any license shall be valid. In general, these restrictions will prohibit the licensee from:

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1. Consuming any alcoholic beverage while armed.
 2. Falsely representing him/herself as a peace officer.
 3. Unjustified or unreasonable displaying of a firearm.
 4. Committing any crime.
 5. Being under the influence of any medication or drug while armed.
 6. Interfering with any law enforcement officer's duties.
 7. Refusing to display his/her license or firearm for inspection upon demand of any peace officer.
 8. Loading the permitted firearm with illegal ammunition.
- (b) The Chief of Police reserves the right to inspect any license or licensed firearm at any time.
- (c) The alteration of any previously approved firearm including, but not limited to adjusting the trigger pull, adding laser sights or modifications shall void any license and serve as grounds for revocation.

207.6.2 AMENDMENTS TO LICENSES

Any licensee may apply to amend a license at any time during the period of validity by completing and submitting a written Application for License Amendment along with the current processing fee to the Department in order to (Penal Code § 26215):

- (a) Add or delete authority to carry a firearm listed on the license.
- (b) Change restrictions or conditions previously placed on the license.
- (c) Change the address or other personal information of the licensee (Penal Code § 26210).

In the event that any amendment to a valid license is approved by the Chief of Police, a new license will be issued reflecting the amendment. An amendment to any license will not serve to extend the original expiration date and an application for an amendment will not constitute an application for renewal of the license.

207.6.3 REVOCATION OF LICENSES

Any license issued pursuant to this policy may be immediately revoked by the Chief of Police for any of the following reasons:

- (a) The licensee has violated any of the restrictions or conditions placed upon the license.
- (b) The licensee becomes psychologically unsuitable to carry a firearm.
- (c) The licensee is determined to be within a prohibited class described in Penal Code § 29800, Penal Code § 29900, Welfare and Institutions Code § 8100, Welfare and Institutions Code § 8103 or any state or federal law.
- (d) The licensee engages in any conduct which involves a lack of good moral character or that might otherwise remove the good cause for the original issuance of the license.

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- (e) If the license is one to carry "loaded and exposed," the license shall be revoked immediately upon a change of the licensee's place of residence to another county (Penal Code § 26210).

The issuance of a license by the Chief of Police shall not entitle the holder to either a property or liberty interest as the issuance, amendment or revocation of such license remains exclusively within the discretion of the Chief of Police as set forth herein.

If any license is revoked, the Department will immediately notify the licensee in writing and the California DOJ (Penal Code § 26225).

207.6.4 LICENSE RENEWAL

No later than 90 days prior to the expiration of any valid license to carry a firearm, the licensee may apply to the Chief of Police for a renewal by:

- (a) Verifying all information submitted in the original application under penalty of perjury.
- (b) Completing a department-approved training course pursuant to Penal Code § 26165. The applicant shall not be required to pay for a training course prior to the determination of good cause (Penal Code § 26165).
- (c) Submitting any firearm to be considered for a license renewal to the Personnel and Training Sergeant for a full safety inspection. The Chief of Police reserves the right to deny a license for any firearm that has been altered from the manufacturer's specifications or that is unsafe (Penal Code § 31910).
- (d) Paying a non-refundable renewal application fee.

Once the Chief of Police or authorized designee has verified the successful completion of the renewal process, the renewal of the license to carry a firearm will either be granted or denied. Prior issuance of a license shall not entitle any licensee to any property or liberty right to renewal.

Whether an application for renewal is approved or denied, the applicant shall be notified in writing within 90 days of the renewal application or within 30 days after receipt of the applicant's criminal background check from the California DOJ, whichever is later (Penal Code § 26205).

207.7 DEPARTMENT REPORTING AND RECORDS

Pursuant to Penal Code § 26225, the Chief of Police shall maintain a record of the following and immediately provide copies of each to the California DOJ:

- (a) The denial of a license
- (b) The denial of an amendment to a license
- (c) The issuance of a license
- (d) The amendment of a license
- (e) The revocation of a license

The Chief of Police shall annually submit to the State Attorney General the total number of licenses to carry firearms issued to reserve peace officers and judges.

207.8 CONFIDENTIAL RECORDS

The home address and telephone numbers of any peace officer, public defender, prosecutor, magistrate, court commissioner or judge contained in an application or license shall not be considered public record (Government Code § 6254(u)(2)).

Any information in an application for a license to carry a firearm that indicates when or where the applicant is vulnerable to attack or that concerns the applicant's medical or psychological history or that of his/her family shall not be considered public record (Government Code § 6254(u)(1)).

BERKELEY POLICE DEPARTMENT

DATE ISSUED: March 1, 2000

GENERAL ORDER C-3

SUBJECT: CONCEALED WEAPON LICENSE AND ENDORSEMENTS

PURPOSE

- 1 - The purpose of this Order is to establish the policy and procedures regarding the issuance and review of concealed weapons license and endorsements.

POLICY

- 2 - The Berkeley Police Department shall adhere to the procedures set forth in this Order, conducting an objective and comprehensive review of all requests for concealed weapon endorsements.

CONCEALED WEAPON LICENSE DEFINITION

- 3 - Section 12050 of the California Penal Code provides for issuing a license to carry a concealed pistol, revolver or other firearm for a period of time up to one year from the date of issuance of the license, subject to conditions set forth below. The license to carry a concealed weapon must be carried whenever the weapon is being carried.
 - (a) A concealed weapon license may include any reasonable restriction(s) or condition(s) which the Chief of Police deems warranted, including restriction as to the time, place and circumstances under which the applicant may carry a concealed weapon.
 - (b) Any restriction(s) imposed pursuant to paragraph (a) above shall be indicated on the license issued.

PROCEDURES - CONCEALED WEAPON LICENSE

- 4 - Any person seeking a concealed weapon license shall be referred to the Bureau of Inspection and Controls. The lieutenant assigned to that unit will ascertain that the applicant meets the following conditions:
 - (a) Applicant must be a resident of the City of Berkeley.
 - (b) Applicant must be of good moral character, as determined by a record and criminal history check.
 - (c) Good cause must exist for issuance of the license.
 - (d) Applicant must successfully complete a firearms familiarization and successfully complete, on an annual basis, a qualifications course approved by the Chief of Police.
 - (e) Applicants must maintain a one million (\$1,000,000) liability insurance policy, with a clause that specifically holds the issuing officer, his/her

* Highlighted text is new

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agency and his/her government jurisdiction harmless for any actual or alleged misuse of a concealed weapon.

- (f) Applicant must carry the weapon in a safe and secure manner.
 - (g) Applicant must present proof of ownership of the weapon(s) to be carried.
- 5 - The person seeking a concealed weapon license must file an application on a form prescribed by the Attorney General.*
 - 6 - A person applying for a concealed weapon license shall be required to pay a fee that will include the pre-determined processing costs of the Department of Justice. The local licensing authority may charge an additional fee in an amount equal to the actual processing costs, excluding fingerprinting and training costs, but in no case to exceed \$100.*
 - 7 - Concealed weapon licenses will be issued only under extraordinary circumstances which are life threatening as determined by the police investigation and records check outlined in sections 4(b) and 4(c) of this Order.
 - 8 - The final determination of whether to issue a concealed weapon license rests with the Chief of Police.
 - 9 - When a decision is made to issue a concealed weapon license, the Bureau of Inspection and Controls Lieutenant will obtain the necessary fees and fingerprints with the assistance of the Support Services Division.
 - 10 - Fingerprints and fees will be forwarded to the Department of Justice, Bureau of Identification, as outlined in General Order I-5.
 - 11 - The concealed weapon license will not be issued until the Department is notified by the Department of Justice that no reason exists to deny the license, the records and criminal history checks and the police investigation into the circumstances under which the license is sought support issuance of the license, and the firearms qualification course had been successfully completed.
 - (a) Once clearance is received from the Department of Justice, State Bureau of Identification, the applicant will be contacted regarding the scheduling of a psychological evaluation. The applicant will be provided with the name of an approved location for this testing with the cost of the evaluation to be borne by the applicant.
 - 12 - Concealed weapon licenses must be renewed annually, or sooner, depending on the conditions of issuance. Before a license is renewed, the Bureau of Inspection and Controls Lieutenant will confirm that a recent approved qualifications course was successfully completed and re-evaluate the good cause for re-issuance of the license. The local licensing authority may charge a fee not to exceed \$25.00, for processing a renewal application.*

* Highlighted text is new

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- 13 - If good cause still exists, a new license will be prepared for issuance and a single fingerprint card and renewal fees will be collected, with the assistance of the Support Services Division, and forwarded to the Department of Justice.

CONCEALED WEAPON ENDORSEMENTS

- 14 - Section 12027 of the California Penal Code regulates the issuance of endorsements for retired officers to carry concealed weapons (CCW permits).

PROCEDURES - CONCEALED WEAPON ENDORSEMENTS

- 15 - Concealed weapon endorsements must be renewed in compliance with the procedures set forth in Penal Code Section 12027.
- (a) Any officer retired after January 1, 1981, shall have a CCW endorsement on the identification. The identification shall indicate the approving issuing agency and the date when the endorsement is to be renewed.
- (1) An exception to this process is an honorably retired peace officer, retired prior to January 1, 1981. He/she is not required to obtain a CCW endorsement from the issuing agency. Such individuals, however, are not exempt from the revocation procedures delineated in this Order.
- (2) No peace officer who is retired after January 1, 1989, because of a psychological disability shall be issued an endorsement to carry a concealed weapon.
- (b) The identification card shall be on a 2x3 inch card, bearing the photograph of the retiree, the retiree's name, address, date of birth, the date that the retiree retired, name and address of the agency from which the retiree retired, have stamped the endorsement "CCW Approved" and the date the endorsement is to be renewed.
- (1) The specific wording on the identification card is "authorized to carry a weapon pursuant to Penal Code sections 12027 and 12031. Valid until _____"
- 16 - Endorsements to carry concealed weapons by retired officers may be revoked or denied upon a hearing conducted to show cause.
- (a) The hearing shall be comprised of a three member board. One member of the board shall be selected by the Department and one member shall be selected by the retired officer or his/her employee organization. The third member shall be jointly selected by the Department and the retired officer or his/her employee organization.

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- (1) A retired officer shall have 15 days to respond to a notice of that hearing. If the retired officer fails to respond to the notice, he/she forfeits their rights to that hearing.
 - (b) The decision by the three person board shall be binding on the Department and the retired officer.
- 17 - A retired officer may have his/her privilege to carry a concealed firearm revoked by violating any of the following:
 - (a) Any federal or state law.
 - (b) Any county or city ordinance.
 - (c) Any Berkeley Police Department rule, regulation, or order that, if violated by an officer on active duty, would result in that officer's arrest, suspension or
- 18 - A retired officer, when notified of the revocation of his/her privilege to carry a concealed firearm, either after the hearing or upon forfeiting the right to a hearing, shall immediately surrender his/her retired law enforcement identification card and endorsement to the Berkeley Police Department.
 - (a) The Department shall issue a new retired law enforcement identification card without a concealed weapon endorsement.
- 19- Any request from an outside law enforcement agency pertaining to the current status of a retiree's ability to carry a concealed weapon shall be checked in the Records Management System (RMS) under the retired officer's name. Should the authority to carry a concealed weapon be REVOKED, it will be noted in the ALERT field.

References: California Penal Code Sections 12027, 12027.1, 12031, 12050
Police Regulation PR 405
General Order No. I-5
CALEA Standards

Control Devices and Techniques

303.1 PURPOSE AND SCOPE

This policy provides guidelines for the use and maintenance of control devices that are described in this policy.

303.2 POLICY

In order to control subjects who are violent or who demonstrate the intent to be violent, the Berkeley Police Department authorizes officers to use control devices in accordance with the guidelines in this policy and the Use of Force Policy.

303.3 ISSUING, CARRYING AND USING CONTROL DEVICES

Control devices described in this policy may be carried and used by members of this department only if the device has been issued by the Department or approved by the Chief of Police or the authorized designee.

Only officers who have successfully completed department-approved training in the use of any control device are authorized to carry and use the device.

Control devices may be used when a decision has been made to control, restrain or arrest a subject who is violent or who demonstrates the intent to be violent, and the use of the device appears reasonable under the circumstances. When reasonable, a verbal warning and opportunity to comply should precede the use of these devices.

When using control devices, officers should carefully consider potential impact areas in order to minimize injuries and unintentional targets.

303.4 RESPONSIBILITIES

303.4.1 WATCH COMMANDER RESPONSIBILITIES

The Watch Commander may authorize the use of a control device by selected personnel or members of specialized units who have successfully completed the required training.

303.4.2 PERSONNEL AND TRAINING SERGEANT RESPONSIBILITIES

The Personnel and Training Sergeant, or designated instructor, shall control the inventory and issuance of all control devices and shall ensure that all damaged, inoperative, outdated or expended control devices or projectiles munitions are properly disposed of, repaired or replaced.

Every control device will be periodically inspected by the Personnel and Training Sergeant or the designated instructor for a particular control device. The inspection shall be documented.

303.4.3 USER RESPONSIBILITIES

All normal maintenance, charging or cleaning shall remain the responsibility of personnel using the various devices.

Any damaged, inoperative, outdated or expended control devices or munitions, along with documentation explaining the cause of the damage, shall be returned to the Personnel and Training Sergeant for disposition. Damage to City property forms shall also be prepared and forwarded through the chain of command, when appropriate, explaining the cause of damage.

303.5 BATON AND COLLAPSIBLE BATON GUIDELINES

The need to immediately control a suspect must be weighed against the risk of causing serious injury. The head, neck, throat, spine, heart, kidneys and groin should not be intentionally targeted except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

When carrying a baton, including a collapsible baton, uniformed personnel shall carry the baton in its authorized holder on the equipment belt. Plainclothes and non-field personnel may carry the baton as authorized and in accordance with the needs of their assignment or at the direction of their supervisor.

303.6 TEAR GAS GUIDELINES

Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the ~~Chief of Police Watch Commander, Incident Commander or Crisis Response Unit Commander~~ may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary. However, tear gas may used without the Chief's authorization when exigent circumstances prevent the request from being made and the delay would likely risk injury to citizens or police personnel (e.g., rocks, bottles, or other projectiles are being thrown and immediate crowd dispersal is necessary). In the event immediate use is necessary, notification to the Chief of Police, or his/her designee, should be made as soon as possible after the deployment.

When practicable, fire personnel should be alerted or summoned to the scene prior to the deployment of tear gas to control any fires and to assist in providing medical aid or gas evacuation if needed.

303.7 OLEORESIN CAPSICUM (OC) GUIDELINES

As with other control devices, oleoresin capsicum (OC) spray and pepper projectiles may be considered for use to bring under control an individual or groups of individuals who are engaging in, or are about to engage in violent behavior. Pepper projectiles and OC spray should not, however, be used against individuals or groups who merely fail to disperse or do not reasonably appear to present a risk to the safety of officers or the public.

303.7.1 OC SPRAY

Uniformed personnel carrying OC (pepper) spray shall carry the device in its holster on the equipment belt or external vest carrier. Plainclothes and non-field personnel may carry OC spray

as authorized, in accordance with the needs of their assignment or at the direction of their supervisor.

303.7.2 PEPPER PROJECTILE SYSTEMS

Pepper projectiles are plastic spheres that are filled with a derivative of OC powder. Because the compressed gas (Less Lethal) launcher delivers the projectiles with enough force to burst the projectiles on impact and release the OC powder, the potential exists for the projectiles to inflict injury if they strike the head, neck, spine or groin. Therefore, personnel using a Less Lethal pepper projectile system should Launcher should not intentionally target those areas, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

Officers encountering a situation that warrants the use of a Less Lethal Launcher pepper projectile system shall notify a supervisor as soon as practicable. A supervisor shall respond to all pepper projectile system incidents where the suspect has been hit or exposed to the chemical agent. The supervisor shall ensure that all notifications and reports are completed as required by the Use of Force Policy.

~~Each deployment of a pepper projectile system shall be documented. This includes situations where the launcher was directed toward the suspect, whether or not the launcher was used. Unintentional discharges shall be promptly reported to a supervisor and documented on the appropriate report form. Only non-incident use of a pepper projectile system, such as training and product demonstrations, is exempt from the reporting requirement.~~

303.7.3 TREATMENT FOR OC SPRAY EXPOSURE

Persons who have been sprayed with or otherwise affected by the use of OC should be promptly provided with clean water to cleanse the affected areas. Those persons who complain of further severe effects shall be examined by appropriate medical personnel.

303.8 POST-APPLICATION NOTICE

Whenever tear gas or OC has been introduced into a residence, building interior, vehicle or other enclosed area, officers should provide the owners or available occupants with notice of the possible presence of residue that could result in irritation or injury if the area is not properly cleaned. Such notice should include advisement that clean-up will be at the owner's expense. Information regarding the method of notice and the individuals notified should be included in related reports.

303.9 KINETIC ENERGY-LESS LETHAL PROJECTILE GUIDELINES

This department is committed to reducing the potential for violent confrontations. Less Lethal Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.

303.9.1 DEPLOYMENT AND USE

Only department-approved projectiles kinetic energy munitions shall be carried and deployed. Approved projectiles munitions may be used to compel an individual to cease his/her actions

when such projectiles munitions present a reasonable option.

Approved projectiles include:

- (a) "Less Lethal" Rounds: Impact projectiles
- (b) "Pava" Rounds: Impact projectiles containing OC/Pepper spray
- (c) "Marking" Rounds: Impact projectiles containing paint

Officers are not required or compelled to use approved projectilesmunitions in lieu of other reasonable tactics if the involved officer determines that deployment of these projectilesmunitions cannot be done safely. The safety of hostages, innocent persons and officers takes priority over the safety of subjects engaged in criminal or suicidal behavior.

Circumstances appropriate for deployment include, but are not limited to, situations in which:

- (a) The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitionsprojectiles.
- (b) The suspect has made credible threats to harm him/herself or others.
- (c) The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers.
- (d) There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

303.9.2 DEPLOYMENT CONSIDERATIONS

Before discharging projectiles, the officer should consider such factors as:

- (a) Distance and angle to target.
- (b) Type of munitionsprojectiles employed.
- (c) Type and thickness of subject's clothing.
- (d) The subject's proximity to others.
- (e) The location of the subject.
- (f) Whether the subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.

A verbal warning of the intended use of the device should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to give the individual a reasonable opportunity to voluntarily comply and to warn other officers and individuals that the device is being deployed.

Officers should keep in mind the manufacturer's recommendations and their training regarding effective distances and target areas. However, officers are not restricted solely to use according to manufacturer recommendations. Each situation must be evaluated on the totality of circumstances at the time of deployment.

The need to immediately incapacitate the subject must be weighed against the risk of causing serious injury or death. The head and neck should not be intentionally targeted, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

303.9.3 SAFETY PROCEDURES

~~Shotguns specifically designated for use with kinetic energy projectiles will be specially marked in a manner that makes them readily identifiable as such.~~

Officers will inspect the Less Lethal Launchers~~shotgun~~ and projectiles at the beginning of each shift to ensure that ~~the the Launchers~~shotgun is in proper working order and the projectiles are of the approved type and appear to be free from defects.

When it is not deployed, the Launchers~~shotgun~~ will be unloaded and properly and securely stored ~~in the vehicle. When deploying the kinetic energy projectile shotgun, the officer shall visually inspect the kinetic energy projectiles to ensure that conventional ammunition is not being loaded into the shotgun.~~

~~Absent compelling circumstances, officers who must transition from conventional ammunition to kinetic energy projectiles will employ the two-person rule for loading. The two-person rule is a safety measure in which a second officer watches the unloading and loading process to ensure that the weapon is completely emptied of conventional ammunition.~~

303.10 TRAINING FOR CONTROL DEVICES

The Personnel and Training Sergeant shall ensure that all personnel who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified as necessary.

- (a) Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.
- (b) All training and proficiency for control devices will be documented in the officer's training file.
- (c) Officers who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to discipline.

303.11 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES

Any application of a control device or technique listed in this policy shall be documented in the related incident report and reported pursuant to the Use of Force Policy.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: September 16, 2004

GENERAL ORDER F-2

**SUBJECT: FIREARMS, AMMUNITION, AND NON-LETHAL WEAPONS:
TRAINING, QUALIFICATION, AND SPECIFICATIONS**

PURPOSE

- 1 - The purpose of this General Order is to establish procedures for training, qualification, and specifications for firearms, ammunition and non-lethal weapons.

POLICY

- 2 - All employees are expected to follow rules, regulations, and procedures regarding weapons specifications, qualification, and training.

PROCEDURES

- 3 - Lethal and Non-lethal weapons training is mandatory for assigned employees.
 - (a) Each Supervisor shall ensure that employees under his/her supervision attend training sessions as scheduled.

TRAINING AND QUALIFICATION

- 4 - The guidelines for training and qualification are as follows:
 - (a) Firearms and Ammunition:
 - (1) While on-duty, sworn officers shall carry only firearms authorized by the Berkeley Police Department.
 - (2) Authorized firearms, including Optional Duty Pistols (ODP's) must be registered and on file with the Firearms Training Unit.
 - (3) Authorized firearms are those with which the officer has qualified, received departmental training in safe usage, and comply with departmental specifications.
 - (4) The Personnel and Training Bureau shall schedule regular training and qualification sessions for duty, off-duty, auxiliary and specialized firearms, which will be evaluated on a pass/remediate basis. Officers, at minimum, shall qualify with firearms as follows:
 - (a) Barricaded Subject/Hostage Negotiation Team, firearms, quarterly. Qualification during HNT training sessions may suffice for departmental qualifications, providing that qualification takes place within the same quarter.
 - (b) On-duty service pistol, shotgun, and patrol rifle if

*Highlighted text is new.

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assigned, semi-annually.

- (c) Off-duty and auxiliary firearms, annually.
- (5) Any officer who fails to attend firearms qualifications, or who fails to achieve the qualifying standard with their duty firearm in accordance with departmental testing procedures, shall be retested until he/she qualifies. As noted in MOU Section 45.3, "Employees who are not able to achieve the minimum standard within a reasonable period of time will be immediately assigned to work on an intensive basis with range masters who will evaluate the severity of the problem. Consistent inability to meet the standard may be cause for termination."
 - a) Per Departmental standards, the FTU will furnish remedial measures and an employee failing to demonstrate proficiency with his/her weapon will not return to duty until such time as proficiency is demonstrated and documented.
- (6) An officer shall not be permitted to carry any off-duty or auxiliary firearm with which he/she has not qualified with at least annually.
- (7) An officer who has taken an extended leave, (6 months or more) or suffered an illness or injury that could affect his/her firearms skills will be required to re-qualify before returning to enforcement duties.
- (b) Non-lethal Weapons:
 - (1) The following non-lethal weapons are authorized:
 - (a) 29" baton
 - (b) 36" long baton (CMT only)
 - (c) 26" expandable baton
 - (d) Aerosol Gas Dispenser (Oleoresin Capsicum)

FIREARMS SPECIFICATIONS

- 5 - The following Departmental specifications regulate firearms for sworn personnel for uniform or plainclothes duty wear.
 - (a) The authorized service pistol shall be the Smith and Wesson self-loading double action pistol in .40 caliber with a minimum barrel length of 4", in blue or stainless steel finish.

*Highlighted text is new.

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- (b) The authorized Optional Duty Pistols (ODP) shall be Heckler & Koch, Glock and Sigarms, in .40 and .45 caliber only, with a minimum barrel length of 3 ½", and a maximum barrel length of 5". Double action pistols shall be holstered in the double action mode, with the hammer down.

 - (1) The authorized magazine capacity for the ODP shall be not less than a total of seven (7) rounds in a factory supplied magazine. Only Departmentally issued duty ammunition shall be carried.
 - (2) Trigger pulls shall be maintained according to manufacturer specifications.
 - (3) No laser sighting devices shall be used unless expressly authorized in writing, by the Chief of Police.
 - (4) No weapons with a ported slide, barrel or compensator shall be authorized.
 - (5) All manufacturers approved and installed safety devices shall be maintained according to manufacturer recommendations and/or specifications.
 - (c) The modification of any pistol, other than changes in sights or stocks/grips, is expressly prohibited. Removable tactical lights are not considered modifications.
 - (d) The Firearms Training Unit will maintain, on the appropriate form, a record of each weapon approved for use.
 - (e) Firearms Training Unit Armorer shall inspect and approve all pistols intended for duty for mechanical functioning within specifications prior to deployment. Should a pistol be deemed "unsafe," it will be barred from deployment, until the cause of the unsafe pistol has been remedied, and rechecked and deemed "safe" by the armorers.
- 6 - Holsters, ammunition carriers and necessary auxiliary equipment for ODP's must be supplied by the officer, be specifically made for the pistol in use, be of comparable quality to the Departmentally issued holsters, and be approved by the Department prior to deployment.
- (a) Approved holsters shall be manufactured with at least a primary and a secondary retention device.
 - (b) Unless expressly authorized, holsters for uniform patrol shall be of a

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black basket weave design and shall match the remainder of an officer's duty belt.

- 7 - Officers shall supply magazine pouches for ODP's. (Unless current leather gear accommodates the ODP magazines) Pouches must be of a black basket weave design, be of comparable quality to the Departmentally issued magazine pouches, and be approved by the Department prior to deployment.
- 8 - In the event an ODP malfunctions or is otherwise unavailable for use, the following options for ODP Replacement are as follows:
 - (a) Use another officer's departmentally registered ODP of the same make, model and caliber.
 - (b) Use a second pistol owned by the officer of the same make, model and caliber and registered with the Department.
 - (c) Obtain a "loaner" pistol from the Department, of the same make, model and caliber.
 - (d) If the same make, model and caliber of pistol is not available, the officer shall qualify with another ODP or Departmentally issued firearm.
- 9 - Patrol Rifle
 - (a) The authorized Patrol Rifle is an AR-15 style semi-automatic rifle in 5.56mm or .223 caliber issued by the department to selected officers assigned to Patrol or SEU.

OFF-DUTY FIREARMS

- 10 - An "off-duty firearm" is defined as any concealable primary handgun normally carried by the sworn officer when not officially in an "on-duty" status.

AUXILIARY FIREARMS

- 11 - Approval to carry an auxiliary (secondary) weapon is governed by Police Regulation 319. Employees on duty shall not carry auxiliary weapons, either on their person or in vehicles, without written approval of the Administrative Division Captain.

Auxiliary weapons shall meet the following criteria and be inspected by a Firearms Training Unit instructor before being approved for use.

- (a) Weapon and Ammunition:

*Highlighted text is new.

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- (1) The firearm and ammunition must be of commercial manufacture. The FTU will record the manufacturer, caliber and serial number of the weapon on the back of the firearms training record card.
 - (2) The caliber of the auxiliary weapon shall not be greater than .45 caliber.
- (b) Reliability and Quality:
- (1) An FTU Instructor will operate the firearm to ascertain any observable defects.
 - (2) An FTU instructor will conduct a routine service inspection of the firearm.
 - (3) The officer will, when possible, field strip the firearm for a detailed inspection.
- (c) Method of Carry:
- (1) The weapon shall be held secure and completely hidden in a short-sleeved uniform.
- (d) The officer shall complete a qualification exercise, as provided by the FTU, which will verify security of the weapon's method of carry.
- (e) The auxiliary weapon application shall be routed to the Administrative Division Captain via the officer's Division Commander for final approval upon successful completion of the qualification exercise.

AMMUNITION

- 12 - The following Departmental specifications regulate service ammunition for sworn personnel:
- (a) The authorized primary service handgun cartridge shall be of a controlled expansion bullet type (hollow point) that will release the greatest amount of kinetic energy within the target, and reduce the potential for over-penetration and ricochet.
 - (1) The reference cartridge for the semi-automatic pistols shall be those issued by and approved for use by the FTU, and authorized by the Chief of Police.
 - (2) Ammunition for the auxiliary pistol shall conform to the bullet type of the service handgun cartridge.

*Highlighted text is new.

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- (3) Ammunition authorized for service use in the 12-gauge shotgun is the 9 or 12 pellet Buckshot and Rifled Slug cartridges.
- (4) Ammunition authorized for service use for the Patrol Rifle is the 5.56mm or .223 caliber cartridge, provided by the FTU and authorized by the Department prior to deployment.
- (5) The use of any other ammunition while on-duty is strictly prohibited.

References: Berkeley Police Association MOU
General Order U-2
Police Regulations 318, 320, 321, 322, 323, 324 and 330
Uniform Equipment Manual
Departmental Order of 10/31/03, Patrol Rifle and Deployment Policy

Canines

308.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of canines to augment police services to the community including, but not limited to locating missing or at risk individuals and apprehending criminal offenders.

308.2 POLICY

It is the policy of the Berkeley Police Department that a request for canine unit assistance from an outside agency only be used to effectively and reasonably carry out legitimate law enforcement objectives

Per the 1982 Berkeley City Council Resolution (51,408 NS), police use of canines from other law enforcement agencies is permitted upon approval of the City Manager (or upon approval of the Chief of Police in emergency situations when the City Manager is not immediately available) in the following circumstances:

- (a) To apprehend a suspect where there is a threat to human life, the suspect is reasonably believed to be armed with a deadly weapon and the suspect is in a controlled, contained area and there are no known occupants of the area other than the suspect; or
- (b) To locate missing persons; or
- (c) To locate crime scenes.

The use of canines in crowd control is explicitly prohibited.

308.3 APPREHENSION GUIDELINES

A canine may be used to locate and apprehend a suspect if:

- (a) The on-scene supervisor or Watch Commander reasonably believes that the individual has either committed, is committing or is threatening to commit any serious offense and
- (b) If the suspect is believed to be concealed in an area where entry by other than the canine would pose a threat to the safety of officers or the public.

It is recognized that situations may arise that do not fall within the provisions set forth in this policy. Such events require consideration of the totality of the circumstances and the use of an objective reasonableness standard applied to the decision to use a canine

Absent a reasonable belief that a suspect has committed, is committing or is threatening to commit a serious offense, mere flight from a pursuing officer, without any of the above conditions, shall not serve as the basis for the use of a canine to apprehend a suspect.

Berkeley Police Department

Law Enforcement Services Manual

Canines

In all applications, once the suspect has been located and no longer reasonably appears to present a threat or risk of escape, officers should confirm the handler secures the canine as soon as it becomes reasonably practicable.

If the canine has apprehended the suspect with a secure bite, and officers believe that the suspect no longer poses a threat, officers should request the handler, if not done already, command the canine to release the suspect.

308.4 PREPARATION FOR DEPLOYMENT

Prior to the use of a canine to search for or apprehend any suspect, the on-scene supervisor should carefully consider all pertinent information reasonably available at the time. The information should include, but is not limited to:

- (a) The nature and seriousness of the suspected offense.
- (b) Whether violence or weapons were used or are anticipated.
- (c) The degree of resistance or threatened resistance, if any, the suspect has shown.
- (d) The suspect's known or perceived age.
- (e) The potential for injury to officers or the public caused by the suspect if the canine is not utilized.
- (f) Any potential danger to the public and/or other officers at the scene if the canine is released.
- (g) The potential for the suspect to escape or flee if the canine is not utilized.

As circumstances permit, the on-scene supervisor should make every reasonable effort to communicate with the canine handler and coordinate with other involved members to minimize the risk of unintended injury.

It is the canine handler's responsibility to evaluate each situation and determine whether the use of a canine is appropriate and reasonable. The canine handler shall have the authority to decline the use of the canine whenever he/she deems deployment is unsuitable.

A supervisor who is sufficiently apprised of the situation may prohibit deploying the canine.

Unless otherwise directed by a supervisor, assisting members should take direction from the handler in order to minimize interference with the canine.

308.5 WARNINGS AND ANNOUNCEMENTS

Unless it would increase the risk of injury or escape, a clearly audible warning announcing that a canine will be used if the suspect does not surrender should be made prior to releasing a canine. Officers should allow a reasonable time for a suspect to surrender and should request the handler quiet the canine momentarily in order to listen for any verbal response to the warning. If feasible, other members should be in a location opposite the warning to verify that the announcement could be heard. If available, warnings given in other languages should be used as necessary.

Canines

In the event of an apprehension, the handling officer shall document in any related report how the warning was given and, if none was given, the reasons why.

308.6 REPORTING DEPLOYMENTS, BITES AND INJURIES

Whenever a canine deployment results in a bite or causes injury to an intended suspect, a supervisor should be promptly notified. The injured person shall be promptly treated by emergency medical services personnel and, if appropriate, transported to an appropriate medical facility for further treatment. The deployment and injuries should also be included in any related incident or arrest report.

308.7 NON-APPREHENSION GUIDELINES

Properly trained canines may also be used to track or search for non-criminals (e.g., lost children, individuals who may be disoriented or in need of medical attention). The Watch Commander is responsible for determining a canine's suitability for such assignments based on the conditions and the particular abilities of the canine. When the canine is deployed in a search or other non-apprehension operation, the following guidelines apply.

- (a) Absent a change in circumstances that present an immediate threat to officers, the canine or the public, such applications should be conducted on-leash or under conditions that minimize the likelihood the canine will bite or otherwise injure the individual, if located.
- (b) Unless otherwise directed by a supervisor, assisting members should take direction from the handler in order to minimize interference with the canine.

308.8 BOMB/EXPLOSIVE DETECTION

Because of the high risk of danger to the public and officers when a bomb or other explosive device is suspected, the use of a canine team trained in explosive detection may be considered. When available, an explosive-detection canine team may be used in accordance with current law and under certain circumstances, including:

- (a) Assisting in the search of a building, structure, area, vehicle or article where an actual or suspected explosive device has been reported or located.
- (b) Assisting with searches at transportation facilities and vehicles (e.g., buses, airplanes, trains).
- (c) Preventive searches at special events, VIP visits, official buildings and other restricted areas. Searches of individuals should remain minimally intrusive and shall be strictly limited to the purpose of detecting explosives.
- (d) Assisting in the search of scenes where an explosion has occurred and an explosive device or secondary explosive device is suspected.

At no time will an explosive-detection trained canine be used to render a suspected device safe or clear.

RESOLUTION NO. 51,408 -N.S.

ESTABLISHING POLICIES FOR USE OF DOGS AND HELICOPTERS BY THE POLICE DEPARTMENT OF THE CITY OF BERKELEY, AND RESCINDING THE PROVISIONS OF RESOLUTION NO. 48,630-N.S. AS THEY APPLY TO THE USE OF DOGS AND HELICOPTERS.

BE IT RESOLVED by the Council of the City of Berkeley as follows:

That the following policies for use of dogs and helicopters by the Police Department of the City of Berkeley are hereby established:

1. Police use of dogs from other law enforcement agencies is permitted upon approval of the City Manager (or upon approval of the Chief of Police in emergency situations when the City Manager is not immediately available) in the following circumstances:

- a. To apprehend suspects
 - (1) Where there is a threat to human life, and
 - (2) Where the suspect is reasonably believed to be armed with a deadly weapon, and
 - (3) Where the suspect is in a controlled, contained area and there are no known occupants of the area other than the suspect; or
- b. To locate missing persons; or
- c. To locate crime scenes.

Provided, however, that the use of dogs is explicitly prohibited for use in crowd control.

2. Police use of helicopters from other law enforcement agencies is permitted upon approval of the City Manager (or upon approval of the Chief of Police in emergency situations when the City Manager is not immediately available) in the following circumstances:

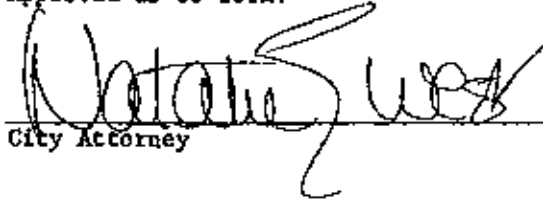
- a. To assist in case of a disaster; or
- b. To assist in rescue efforts (specifically excluding the rescue of hostages); or

1.

c. To assist in locating missing persons.

FURTHER, RESOLVED, that the provisions of Resolution No. 48,630-N.S. as they apply to the use of dogs and helicopters are hereby rescinded.

Approved as to form:


City Attorney

Hate Crimes

319.1 PURPOSE AND SCOPE

The purpose of this policy is to meet or exceed the provisions of Penal Code § 13519.6(c) and provides members of this department with guidelines for identifying and investigating incidents and crimes that may be motivated by hatred or other bias.

319.1.1 DEFINITIONS

Hate crimes - A criminal act committed in whole or in part, because of one or more of the following actual or perceived characteristics of the victim (Penal Code § 422.55; Penal Code § 422.56; Penal Code § 422.57):

- (a) Disability
- (b) Gender
- (c) Nationality
- (d) Race or ethnicity
- (e) Religion
- (f) Sexual orientation
- (g) Association with a person or group with one or more of these actual or perceived characteristics
- (h) Examples of hate crimes include, but are not limited to:
 - 1. Interfering with, oppressing or threatening any other person in the free exercise or enjoyment of any right or privilege secured by the constitution or laws because of one or more of the actual or perceived characteristics of the victim (Penal Code § 422.6).
 - 2. Defacing a person's property because of one or more of the actual or perceived characteristics of the victim (Penal Code § 422.6(b)).
 - 3. Terrorizing a person with a swastika or burning cross (Penal Code § 11411).
 - 4. Vandalizing a place of worship (Penal Code § 594.3).

The federal Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act expands federal hate crimes to include crimes motivated by a victim's actual or perceived sex, sexual orientation, gender identity or disability (18 USC § 249).

Victim - Includes, but is not limited to, a community center, educational facility, entity, family, group, individual, office, meeting hall, person, place of worship, private institution, public agency, library or other victim or intended victim of the offense (Penal Code § 422.56).

319.2 POLICY

The Berkeley Police Department recognizes and places a high priority on the rights of all

individuals guaranteed under the state and federal constitution and incorporated in state and federal law.

319.3 PREVENTION AND PREPARATION

While it is recognized that not all crime can be prevented, this department is committed to taking a proactive approach to preventing and preparing for likely hate crimes by, among other things:

- (a) Make an affirmative effort to establish contact with persons and groups within the community, who are likely targets of hate crimes and forming networks that address prevention and response.
- (b) Accessing assistance by, among other things, activating the California Department of Justice Hate Crime Rapid Response Protocol when necessary.
- (c) Providing victim assistance and community follow-up as outlined below.
- (d) Educating community and civic groups about hate crime laws.
- (e) Establishing a community relations liaison to work with community organizations and leaders to coordinate public meetings, local group meetings and school assemblies on recognizing, preparing for and preventing hate crimes.

319.4– HATE CRIME vs. HATE INCIDENT

Many acts of hate violence fall under the category of a hate crime, which is punishable by law. However, not all hate incidents are hate crimes. For example, verbal name calling, although offensive, is not a crime and must be accompanied by a viable threat of violence and the ability to carry out the threat.

For a hate incident to be categorized as a hate crime, it must violate a criminal law. A hate crime might include threatening phone calls, physical assaults, destruction of property, bomb threats, and/or the disturbance of religious meetings.

A hate incident that does not constitute a hate crime might include hate speech, display of offensive materials on one's property, the distribution of hate materials in public places, and the posting of hate materials that does not result in property damage. Even if a hate incident does not rise to the level of a hate crime, the victim will still need support and assistance and may have an actionable civil claim as well.

319.5 CRIMINAL STATUTES

The key criminal statutes on hate crimes are

- (a) Penal Code § 422.6 which provides that it is a misdemeanor to both (a) threaten or injure an individual or (b) damage property because of the real or perceived beliefs or characteristics of the other person; and
- (b) Penal Code § 422.7 which provides that it is a felony to both (a) threaten or injure an individual (when the injury could or does result in great bodily injury) or (b) damage property

(when the damage is in excess of \$950) because of the real or perceived beliefs or characteristics of the other person.

3-19.4319.6 INVESTIGATIONS

Whenever any member of this department receives a report of a suspected hate crime or other activity that reasonably appears to involve a potential hate crime, the following should occur:

- (a) Assigned officers should promptly contact the victim, witness, or reporting party to investigate the matter further as circumstances may dictate
- (b) A supervisor should be notified of the circumstances as soon as practical.
- (c) Once in-progress aspects of any such situation have been stabilized (e.g., treatment of victims, apprehension of present suspects at the scene, etc.), the assigned officers should take all reasonable steps to preserve evidence that establishes a possible hate crime.
- (d) Based upon available information, officers should take appropriate action to mitigate further injury or damage to potential victims or the community.
 1. Officers should contact the property owner to remove any evidence that cannot be physically removed (i.e., painted words or signs on a wall) by the officer once the offense is documented.
- (e) The assigned officers should interview available witnesses, victims and others to determine what circumstances, if any, indicate that the situation may involve a hate crime.
 1. No victim of or a witness to a hate crime who is not otherwise charged with or convicted of a crime under state law may be detained for or turned over to federal authorities exclusively for any actual or suspected immigration violation (Penal Code § 422.93(b))
 2. Statements of victims and witnesses should be audio or video recorded if practicable (see the Portable Audio/Video Recorders Policy).
- (f) Depending on the situation, the assigned officers or supervisor may request additional assistance from detectives or other resources to further the investigation
- (g) The assigned officers will include all available evidence indicating the likelihood of a hate crime in the relevant reports. All related reports should be clearly marked as "Hate Crimes" and, absent prior approval of a supervisor, should be completed and submitted by the assigned officers before the end of the shift
- (h) The assigned officers will provide the victims of any suspected hate crime with a brochure on hate crimes (Penal Code § 422.92). Such brochures will also be available to members of the general public upon request. The assigned officers should also make reasonable efforts to assist the victims by providing available information on local assistance programs and organizations
- (i) The assigned officers and supervisor should take reasonable steps to ensure that any such situation does not escalate further and should provide information to the victim regarding

legal aid (e.g., Possible Temporary Restraining Order through the District Attorney or City Attorney Penal Code § 136.2 or Civil Code § 52.1 as indicated).

319.6.1 SUPERVISOR RESPONSIBILITY

The supervisor should confer with the initial responding officers to identify reasonable and appropriate preliminary actions. The supervisor should:

- (a) Review related reports to verify whether the incident is appropriately classified as a hate crime for federal and state bias crime-reporting purposes.
- (b) Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.
- (c) Consider the need for further action to be taken for the protection of the victims or vulnerable sites, such as assigning an officer at specific locations that could become targets or increase neighborhood surveillance.
- (d) Ensure that members who are responsible for the conduct and maintenance of information on criminal groups are notified and that they make appropriate inquiries and entries into criminal intelligence systems (see Criminal Organizations Policy).

319.6.2 DETECTIVE BUREAU RESPONSIBILITY

If a hate crime case is assigned to the Detective Bureau, the assigned detective will be responsible:

- (a) Coordinating further investigation with the District Attorney and other appropriate law enforcement agencies.
- (b) Maintaining contact with the victims and other involved individuals as needed.
- (c) Maintaining statistical data and tracking on suspected hate crimes as indicated for required reporting to the Attorney General (Penal Code § 13023). See the Records Management Policy.
- (d) Make reasonable efforts to identify additional witnesses.
- (e) Utilize available criminal intelligence systems as appropriate (see Criminal Organizations Policy).
- (f) Provide the supervisor and the Public Information Officer with information that can be responsibly reported to the media.
 1. When appropriate, the PIO should reiterate that the hate crime will not be tolerated and will be taken seriously.

319.5319.7 TRAINING

All members of this department will receive POST approved training on hate crime recognition and investigation as provided by Penal Code § 13519.6. Training should also include recognition

of bias motivators such as ranges of attitudes and perceptions toward a specific characteristic or group.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: March 1, 2000

GENERAL ORDER H-4

SUBJECT: HATE CRIME POLICY AND PROCEDURES

PURPOSE

- 1 - The purpose of this General Order is to establish a policy and procedure for handling crimes and incidents that are motivated by hatred or prejudice arising from differences in race, religion, gender, ethnic background, culture, or sexual orientation.

POLICY

- 2 - The policy of the Berkeley Police Department is to ensure that the rights guaranteed by Federal, State, and Local laws, and the U. S. Constitution are protected for all people regardless of their race, gender, ethnic background, national origin, religious belief, sex, age, disability, sexual orientation, or political affiliation. When such rights are infringed upon by violence, threats, or other harassment, the Department will use all resources necessary to rapidly identify the persons responsible for criminal offenses, arrest them and bring them before the courts.
- 3 - All criminal acts of racial, religious or political hate motivated violence or threats will be viewed as serious, and the investigation of them will be given high priority. Such acts generate fear and concern among victims and the public, and have the potential for recurring, escalating, and possibly causing counter-violence.
- 4 - All reported incidents that are non-criminal and that are motivated by race, gender, ethnicity, religion, sexual orientation, or political affiliation will be investigated as high priority and documented by a police report. Such incidents may have the potential to reoccur and escalate into a criminal offense.

DEFINITION

- 5 - The California Attorney General's Office most recent edition on "Law Enforcement Guidelines for Hate Crime Policy", defines "hate crime " as "any criminal act or attempted criminal act directed against a person or persons by another based upon the victim's actual or perceived race, nationality, religion, sexual orientation, gender, mental disability, or physical disability. A hate crime includes any criminal act or attempted criminal act against the property of a public agency or a private institution because it is identified or associated with a person or group of an identifiable race, nationality, religion, sexual orientation, gender, mental disability, or physical disability. "

REPORTING AND INVESTIGATION PROCEDURES

- 6 - Communications Center
 - (a) Upon receipt of a report of a possible/suspected hate motivated crime or incident, the Communications personnel shall:

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- (1) Dispatch a field unit as soon as reasonably practical in accordance with the Communications Center Procedures Manual.
- (2) Notify an area Patrol Sergeant of the reported incident.

7 - Patrol Officer

- (a) When a Patrol Officer responds to a report of a hate-motivated crime or incident, the officer shall:
 - (1) Arrest the responsible(s) if applicable.
 - (2) Advise their Patrol Supervisor of the situation.
 - (3) Attempt to effectively calm the victim by being empathetic and supportive.
 - (4) Conduct a thorough preliminary investigation consistent with Department policy and procedure.
 - (5) Provide assistance to the victim by giving them referral information such as counseling and other appropriate support and assistance agencies.
 - (6) Designate hate-motivated crime or incident by writing "Hate Crime Incident" across the top of the report form.
 - (7) Include information on the report form indicating why the motivation appears all or in part to be based on differences in race, religion, ethnicity or sexual orientation.

8 - Patrol Supervisor

- (a) The Patrol Supervisor, upon being notified of a possible hate-motivated crime or incident, shall:
 - (1) Respond to the scene, interview the patrol officer, and confirm whether or not a hate-motivated crime or incident has occurred.
 - (2) Take whatever steps are necessary to ensure that the situation does not escalate.
 - (3) Assist in calming the victim by being empathetic and supportive.
 - (4) Insure that a thorough preliminary investigation is conducted by the assigned officer.
- (b) The Patrol Supervisor shall notify the Watch Commander, Duty Command Officer, or on-call Captain, as appropriate.

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- (c) The Patrol Supervisor shall include a summary of the incident in the Supervisor's Daily Report.
- 9 - Patrol Watch Commander
- (a) The Patrol Watch Commander, upon being notified of a possible hate-motivated crime or incident, shall:
 - (1) Discuss the incident with the Patrol Sergeant, as appropriate.
 - (2) Notify any other person(s) deemed appropriate due to the circumstances of the crime or non-criminal incident.
 - (b) The Patrol Watch Commander shall report the incident in his/her Watch Commander's Daily report, as appropriate.
- 10 - Support Services Division - Detective Bureau
- (a) If the type of crime requires a follow-up, the investigator assigned the case shall:
 - (1) Conduct a thorough follow-up investigation consistent with Department policy and procedure.
 - (2) Keep the **Support Services Division Lieutenant*** informed of the progress of the investigation.
 - (3) Prepare the case for prosecution in court, if a suspect is known.
 - (b) The **Support Services Division Lieutenant*** shall ensure all necessary follow investigations are completed.
- 11 - Support Services Division - Report Review Sergeant
- (a) The Support Services Division Lieutenant* shall insure that all hate-motivated crime or incident statistics are recorded and **reported*** in accordance with State and Federal laws.
- 12 - Public Information Officer
- (a) The Public Information Officer shall serve as the liaison between the Department and the press and community, religious, and civic leaders.
- 13 - Community Services Bureau
- (a) The Community Services Bureau Lieutenant shall meet with neighborhood group as necessary, to allay fears, reduce the potential for counter-violence, and provide safety and protection information.

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- (b) The Community Services Bureau Lieutenant shall assist the victim and victim family, as needed.

References: General Orders C-2, D-2, M-1

Police Regulation 232

Training & Information Bulletin #201

California Penal Code Sections 136.2, 139, 190.2(a) (16), 302, 422.6(a) (b) (c), 422.7, 427.9, 538 (c), 594.1, 594.3, 640.8, 1170.75, 1170.8, 1170.85, 11141 (a), 11410, 11411, 11412, and 11413

California Civil Code Sections 51.0, 51.5, 51.7, 52.0 and 52.1

Reserve Officers

326.1 PURPOSE AND SCOPE

The Berkeley Police Department Reserve Program-Unit was established to supplement and assist regular sworn police officers in their duties. This unit provides professional, sworn volunteer reserve officers who can augment regular staffing levels.

326.2 DEFINITIONS:

Reserve Coordinator: The Community Services Bureau Lieutenant, or their designee Sergeant will be designated as the Reserve Coordinator and will be in charge of administering the Reserve Program.

Police Reserve Officer: A duly appointed and sworn member of the Berkeley Police Department in accordance with applicable Penal and Administrative Codes of the State and policies of the City and the Department dealing with Police Reserve Officers.

Level I Police Reserve Officer: A Level I Police Reserve Officer is a trained and capable officer, as described in applicable sections of the California Penal Code and requirements set by the Committee of Peace Officer Standards and Training (POST) for recognition as a Level I Police Reserve Officer. A Level I officer is authorized to perform police functions while working alone, including general law enforcement patrol.

Level II Police Reserve Officer: A Level II Police Reserve Officer is a trained and capable officer, as described in applicable sections of the California Penal Code and requirements set by POST. A Level II officer may function as a Peace Officer under the supervision of an officer possessing a POST Basic Certificate. A Level II officer may work alone on specifically authorized assignments, which are not general law enforcement.

Level III Police Reserve Officer: Although authorized by POST, the Berkeley Police Department will not employ Level III Reserve Officers.

Support Activity: Support activity consists of the full range of duties within the Police Department to which a reserve officer may be assigned, including training.

326.2-326.3 SELECTION AND APPOINTMENT OF POLICE RESERVE OFFICERS

The Berkeley Police Department shall endeavor to recruit and appoint to the Reserve Program-Unit only those applicants who meet the high ethical, moral and professional standards set forth by this department.

326-2-326.3.1 PROCEDURE

All applicants shall be required to meet and pass the same pre-employment procedures as regular police officers before appointment.

Before appointment to the Police Reserve Program-Unit, an applicant must complete POST Peace

~~Officer Orientation Modules I, II, or III or the POST Basic Academy, have completed, or be in the process of completing, a POST approved basic academy or extended basic academy~~

~~326.2-2326.3.2~~ APPOINTMENT

Applicants who are selected for appointment to the ~~Police Reserve Program~~Unit shall, on the recommendation of the Chief of Police, be sworn in by the Chief of Police and take a loyalty oath to observe and obey all of the laws of the land and to carry out their duties to the best of their ability.

~~COMPENSATION FOR POLICE RESERVE OFFICERS Compensation for reserve officers is provided as follows:~~

~~All reserve officer appointees are issued two sets of uniforms and all designated attire and safety equipment. All property issued to the reserve officer shall be returned to the Department upon termination or resignation. Reserves shall receive a yearly uniform allowance equal to that of regular officers.~~

~~326.2-3326.3.3~~ EMPLOYEES WORKING AS RESERVE OFFICERS

Qualified employees of this department, when authorized, may also serve as reserve officers. However, the Department must not utilize the services of a reserve or volunteer in such a way that it would violate employment laws or labor agreements (e.g., a detention officer working as a reserve officer for reduced or no pay). Therefore, the Reserve Coordinator should consult the Personnel and Training Bureau prior to an employee serving in a reserve or volunteer capacity (29 CFR 553.30).

~~326.3326.4~~ RESERVE COORDINATOR

The Chief of Police shall delegate the responsibility for administering the Reserve Officer Program to ~~the Community Services Bureau Lieutenant~~Sergeant a Reserve Coordinator.

The ~~CSB Lieutenant or their designee~~Sergeant Reserve Coordinator, serving as the Reserve Coordinator, shall have the responsibility of, but not be limited to:

- (a) Assignment of reserve personnel
- (b) Conducting reserve meetings
- (c) Establishing and maintaining a reserve call-out roster
- (d) Maintaining and ensuring performance evaluations are completed
- (e) Monitoring individual reserve officer performance
- (f) ~~Monitoring~~ Monitoring the overall Reserve Program
- (g) Maintaining liaison with other agency Reserve Coordinators

~~326.4326.5~~ SUPERVISION OF RESERVE OFFICERS

Reserve officers who have attained the status of Level II shall be under the immediate supervision of a regular sworn officer (Penal Code 832.6). The immediate supervision requirement shall also continue for reserve officers who have attained Level I status unless special authorization is received from the Reserve Coordinator with the approval of the Division ~~Captain~~Commander.

326.4.1326.5.1 SPECIAL AUTHORIZATION REQUIREMENTS

Reserve officers certified as Level I may, with prior authorization of the Reserve Coordinator and on approval of the Division Commander/Captain, be relieved of the "immediate supervision" requirement. Level I reserve officers may function under the authority of Penal Code § 832.6(a)(1) only for the duration of the assignment or purpose for which the authorization was granted.

In the absence of the Reserve Coordinator and the Division Commander/Captain, the Watch Commander may assign a certified Level I reserve officer to function under the authority of Penal Code § 832.6(a)(1) for specific purposes and duration.

326.4.2326.5.2 IDENTIFICATION OF RESERVE OFFICERS

All reserve officers will be issued a uniform badge and a Department identification card. The uniform badge shall be the same as that worn by a regular full-time officer but shall have three digits beginning with a 6 or a 7. The identification card will be the standard identification card with the exception that "Reserve" will be indicated on the card.

326.4.3326.5.3 UNIFORM

Reserve officers shall conform to all uniform regulation and appearance standards of this department. Reserve officers are not required to have a Class A jacket. All reserve officer appointees are issued two sets of uniforms and all designated attire and safety equipment. All property issued to the reserve officer shall be returned to the Department upon termination or resignation.

326.5326.6 FIELD TRAINING

Within one year of appointment, Level I or II reserve officers must successfully complete the Departmental Field Training Program.

(a) All reserve officers shall participate in mandated training such as firearms training and monthly reserve officer training.

1. Failure to participate in mandated training may result in termination, suspension or restricted status.

i. RESERVE OFFICER EVALUATIONS

While in field training-training, reserve officers will be continuously evaluated using standardized daily and weekly observation reports. The reserve will be considered a trainee until all of the training phases have been completed. Reserve officers having completed their field training will be evaluated annually using performance dimensions applicable to the duties and authorities granted to that reserve.

326.6326.7 DUTIES OF RESERVE OFFICERS

Reserve officers assist regular officers in the enforcement of laws and in maintaining peace and order within the community. Assignments of reserve officers will usually be to augment the Operations Division. Reserve officers may be assigned to other areas within the Department as needed. Reserve officers are required to work a minimum of 16 hours per month.

326.6-1326.7.1 POLICY COMPLIANCE

Police rReserve officers shall be required to adhere to all departmental policies and procedures. A copy of the policies and procedures will be made available to each reserve officer upon appointment and he/she shall become thoroughly familiar with these policies.

Whenever a rule, regulation, or guideline in this manual refers to a sworn regular full-time officer, it shall also apply to a sworn reserve officer unless by its nature it is inapplicable.

326.6-2326.7.2 SIGN-IN/OUT PROCEDURES:

At the beginning of each tour of duty, reserve officer shall sign in on the Reserve Support Activity Log, indicating the nature of activity, and sign out at the conclusion of the tour.

- (a) Reserve officers shall report to the supervisor of the activity that they are assigned to work, prior to working. Reserve officers working patrol shall determine which patrol team they are working with and report to the patrol supervisor of that team, as well as to the communications center, prior to working. If a reserve officer works beyond that patrol team's hours and onto another team, then the reserve officer shall report to the subsequent patrol sergeant as well. Conversely, they shall report to the supervisor of that activity at the conclusion of the activity/tour.

326.6-3326.7.3 RESERVE OFFICER ASSIGNMENTS

Reserve officers will be assigned to duties by the Reserve Coordinator or his/her designee. A reserve officer may be assigned to the any of the following:

- a) Traffic enforcement including citations and tows.
- b) Parking enforcement including citations and tows.
- c) Vehicle collision reports
- d) Lost/found property reports.
- e) Animal bite reports where the follow-up is reassigned to Animal Services.
- f) Non-Criminal Incident reports
- g) Miscellaneous Service Complaints.
- h) Supplemental reports based on incidents, witnesses, and neighborhood checks, etc.
- i) Hit and run misdemeanor cases with no viable leads (at the reserve officer's discretion, see the Traffic Collision Reporting Policy).
- j) Auto burglary, theft from auto, or malicious damage to vehicles with no viable leads (only if the victim is unable to complete an online report).
- k) Booking and/or transportation details (i.e. booking detainees into the BPD Jail or transporting detainees to Santa Rita Jail or Juvenile Hall)
- l) Custodial details (i.e. monitoring a detainee who is being medically treated at Highland, or an in-custody juvenile.
- m) Traffic control details

n) Special operation details (e.g., first amendment activities, the Kite Festival, Solano Stroll, etc.)

n)o) Any other detail the Reserve Coordinator or his/her designee, determines appropriate

PROHIBITED REPORTS

Unless sworn supervisory approval is obtained, or a standing agreement exists between a Reserve and the Reserve Coordinator, reserve officers, due to assigned/handling officer follow-up responsibilities, shall not be assigned to the following types of offenses:

- (a) Auto burglary, theft from auto cases, and malicious damage to vehicle with leads.
- (b) All misdemeanor assault/battery cases.
- (c) Felony hit and run cases and misdemeanor hit and run cases with leads.
- (d) Adult missing person cases.
- (e) Juvenile missing person cases.
- (f) Felony offenses.

~~reserve officer~~ Reserve officer

326.7.4 ARRESTS BY RESERVE OFFICERS

Absent exigent circumstances, all arrests made by reserve officer shall be approved by a Patrol Sergeant prior to leaving the scene of the arrest, and in all cases prior to booking.

~~326.6-5~~ 326.7.5 INVESTIGATIONS AND COMPLAINTS

If a reserve officer has a complaint made against him/her or becomes involved in an internal investigation, that complaint or internal investigation may be investigated by the Reserve Coordinator, at the discretion of the Operations Division ~~Commander~~ Captain.

Reserve officers are considered at-will employees. Government Code § 3300 et seq. applies to reserve officers with the exception that the right to hearing is limited to the opportunity to clear their name.

Any disciplinary action that may have to be administered to a reserve officer shall be accomplished as outlined in the Policy Manual.

326.5.1 INACTIVITY

Any Level I or II reserve officer who is inactive for a protracted period of time shall go through a field training update similar to that used upon the return of a regular officer to the Department after being reinstated to the Department.

~~326.7~~ 326.8 FIREARMS REQUIREMENTS

Penal Code § 830.6(a)(1) designates a reserve officer as having peace officer powers during his/her assigned tour of duty, provided the reserve officer qualifies or falls within the provisions of Penal Code § 832.6.

326.6.1 CARRYING WEAPON ON DUTY

Penal Code § 830.6(a)(1) permits qualified reserve officers to carry a loaded firearm while on-duty. ~~It is the policy of this department to allow reserves to carry firearms only while on-duty or to and from duty.~~

326.6.2 CONCEALED FIREARMS

Berkeley Police Reserve Officers shall be allowed to carry a firearm when off duty as a Level I or II reserve officer and will be issued a CCW endorsement on their Departmental ID cards

326.6.3 RESERVE OFFICER FIREARM TRAINING

All Reserve Officers are required to maintain proficiency with firearms used in the course of their assignments. Reserve officers shall qualify semi-annually with their on-duty firearm and annually with any off-duty or auxiliary firearms comply with all areas of the firearms training section of the Policy Manual, with the following exceptions: (see the Firearms policy for further information regarding qualifications). ~~All reserve officers are required to qualify at least every other month.~~

~~(nnnnnnnnnnnn) — Reserve officers may fire at the department approved range at least once each month and more often with the approval of the Reserve Coordinator~~

~~(nnnnnnnnnnnn) — officer fail to qualify over a two-month period, that reserve officer will not be allowed to carry a firearm until he/she has reestablished his/her proficiency~~

~~326.10~~ **326.9 EMERGENCY CALL-OUT FOR RESERVE PERSONNEL**

~~The Reserve Coordinator shall develop a plan outlining an emergency call-out procedure for reserve personnel.~~ One of the primary reasons for a Reserve Program is to have trained personnel that can respond in the event of an emergency such as a large fire, earthquake, riot or other such natural or civil emergency. For this reason, it is assumed that, within reason, reserve officers will respond in the event of an emergency.

The Reserve Coordinator shall develop a plan outlining an emergency call-out procedure for reserve personnel.

~~326.10~~ **326.9.1 TEMPORARY LEAVE.**

Any reserve officer who will be unavailable for emergency response shall notify the Reserve Coordinator in a timely manner regarding his/her unavailability.

- (a) Normal and acceptable reasons would be for business trips, vacations or illness.
- (b) Should exceptional circumstances occur, such as extended illness, military service, temporary change in business assignment, etc., a reserve officer may be considered unavailable for a protracted period of time only with the approval of the Reserve Coordinator.

~~Penal Code § 832.6 requires Level II reserve officers, who have not been released from the immediate supervision requirement per the Completion of the Formal Training Process subsection, to work under the immediate supervision of a peace officer who possesses a Basic POST Certificate.~~

~~326.3.1 TRAINING OFFICERS~~

~~Officers of this department, who demonstrate a desire and ability to train reserve officers, may train the reserves during Phase II, subject to Watch Commander approval.~~

~~326.3.2 PRIMARY TRAINING OFFICER~~

~~Upon completion of the Academy, reserve officers will be assigned to a primary training officer. The primary training officer will be selected from members of the Field Training Officer (FTO) Committee. The reserve officer will be assigned to work with his/her primary training officer during the first 160 hours of training. This time shall be known as the Primary Training Phase.~~

~~326.3.3 FIELD TRAINING MANUAL~~

~~Each new reserve officer will be issued a Field Training Manual at the beginning of his/her Primary Training Phase. This manual is an outline of the subject matter and/or skills necessary to properly function as an officer with the Berkeley Police Department. The reserve officer shall become knowledgeable of the subject matter as outlined. He/she shall also become proficient with those skills as set forth in the manual.~~

~~326.3.4 COMPLETION OF THE PRIMARY TRAINING PHASE~~

~~At the completion of the Primary Training Phase, (Phase I) the primary training officer will meet with the Reserve Coordinator. The purpose of this meeting is to discuss the progress of the reserve officer in training.~~

~~If the reserve officer has progressed satisfactorily, he/she will then proceed to Phase II of the training. If he/she has not progressed satisfactorily, the Reserve Coordinator will determine the appropriate action to be taken.~~

~~326.3.5 SECONDARY TRAINING PHASE~~

~~The Secondary Training Phase (Phase II) shall consist of 100 hours of additional on-duty training. The reserve officer will no longer be required to ride with his/her primary training officer. The reserve officer may now ride with any officer designated by the Watch Commander.~~

~~During Phase II of training, as with Phase I, the reserve officer's performance will be closely monitored. In addition, rapid progress should continue towards the completion of the Officer's Field Training Manual. At the completion of Phase II of training, the reserve officer will return to his/her primary training officer for Phase III of the training.~~

~~326.3.6 THIRD TRAINING PHASE~~

~~Phase III of training shall consist of 24 hours of additional on-duty training. For this training phase, the reserve officer will return to his/her original primary training officer. During this phase, the training officer will evaluate the reserve officer for suitability to graduate from the formal training program.~~

~~At the completion of Phase III training, the primary training officer will meet with the Reserve Coordinator. Based upon the reserve officer's evaluations, plus input from the primary training~~

officer, the Reserve Coordinator shall decide if the reserve officer has satisfactorily completed his/her formal training. If the reserve officer has progressed satisfactorily, he/she will then graduate from the formal training process. If his/her progress is not satisfactory, the Reserve Coordinator will decide upon the appropriate action to be taken.

326.3.7 COMPLETION OF THE FORMAL TRAINING PROCESS

When a reserve officer has satisfactorily completed all three phases of formal training, he/she will have had a minimum of 284 hours of on-duty training. He/she will no longer be required to ride with a reserve training officer. The reserve officer may now be assigned to ride with any officer for the remaining 200-hour requirement for a total of 484 hours before being considered for relief of immediate supervision.

326.5.1 RESERVE OFFICER MEETINGS

All reserve officer meetings will be scheduled and conducted by the Reserve Coordinator. All reserve officers are required to attend scheduled meetings. Any absences must be satisfactorily explained to the Reserve Coordinator.

No reserve officer will be permitted to carry a concealed firearm while in an off-duty capacity, other than to and from work, except those reserve officers who possess a valid CCW permit. An instance may arise where a reserve officer is assigned to a plainclothes detail for his/her assigned tour of duty. Under these circumstances, the reserve officer may be permitted to carry a weapon more suited to the assignment with the knowledge and approval of the supervisor in charge of the detail. Any reserve officer who is permitted to carry a firearm other than the assigned duty weapon may do so only after verifying that the weapon conforms to departmental standards. The weapon must be registered by the reserve officer and be inspected and certified as fit for service by a departmental armorer.

Before being allowed to carry any optional firearm during an assigned tour of duty, the reserve officer shall have demonstrated his/her proficiency with said weapon.

When a reserve officer has satisfactorily completed all three phases of training (as outlined in the Field Training section), he/she may be issued a permit to carry a concealed weapon. The decision to issue a concealed weapon permit will be made by the Chief of Police with input from the Reserve Program Coordinator and administrative staff. In issuing a concealed weapon permit a reserve officer's qualification will be individually judged. A reserve officer's dedication to the program and demonstrated maturity, among other factors, will be considered before a concealed weapon permit will be issued. Once issued, the concealed weapon permit will be valid only for as long as the reserve officer remains in good standing as a Reserve Officer with the Berkeley Police Department.

RETIREMENT FROM THE BERKELEY RESERVE POLICE PROGRAM

Retirement is an honorary status that does not include any pension, benefits or privileges usually associated with peace officer retirements. Retired Berkeley Police Reserve Officers are authorized to carry concealed weapons based on their honorary retirement status (see Retiree Concealed Firearms Policy). Reserve officers will be eligible for retirement upon meeting any of the requirements listed below.

- (a) They reach age 50 and have ten (10) years of continuous service.
- (b) They have twenty (20) years of service at any age.

(c) In the event of medical disability, a reserve officer may retire at any age with ten (10) years of continuous service. If the disability occurs while working as a reserve officers, there will be no time requirement.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: September 15, 2016

GENERAL ORDER R-33

SUBJECT: BERKELEY POLICE RESERVE PROGRAM

PURPOSE

- 1 The purpose of this General Order is to define the Berkeley Police Reserve Program, including its organization, procedures and responsibilities.

POLICY

- 2 It is the policy of the Berkeley Police Department that a Police Reserve Program be maintained. It is further the policy of the Department that individual Reserve Officers be recruited, trained and equipped using the same standards applied to the Department at large.

DEFINITIONS

- 3 **BERKELEY POLICE RESERVE:** The Berkeley Police Reserve is an organization of duly appointed, sworn, trained and capable officers who occupy a support role within the Police Department. Reserve officers do not replace full time sworn officers but supplement and assist both on a regular basis and in time of need.
- 4 **DIRECTOR:** The Director of the Berkeley Police Reserve is a Sergeant who administers the program. The Director recruits, trains, equips and supervises a police reserve; assists regular police personnel when the need for police services exceeds that available from the normal complement of the Patrol Division; assigns police reserve officers to provide regular support activity in the field; coordinates, plans and staffs special events; provides supervisory personnel from within the Reserve ranks; performs other specialized police functions in times of emergency need.
- 5 **POLICE RESERVE OFFICER:** A duly appointed and sworn member of the Berkeley Police Department in accordance with applicable Penal and Administrative Codes of the State and policies of the City and the Department dealing with Police Reserve Officers.
- 6 **LEVEL I POLICE RESERVE OFFICER:** A Level I Police Reserve Officer is a trained and capable officer, as described in applicable sections of the California Penal Code and requirements set by P.O.S.T. for recognition as a Level I Police Reserve Officer. A Level I officer is authorized to perform police functions while working alone, including solo general law enforcement patrol.
- 7 **LEVEL II POLICE RESERVE OFFICER:** A Level II Police Reserve Officer is a trained and capable officer, as described in applicable sections of the California Penal Code and P.O.S.T. regulations. A Level II officer may function as a Peace Officer under the supervision of an officer possessing a P.O.S.T. Basic Certificate.

*Highlighted text is new.

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A Level II officer may work alone on specifically authorized assignments, which are not general law enforcement.

- 8 LEVEL III POLICE RESERVE OFFICER: Although authorized by P.O.S.T., the Berkeley Police Department will not employ Level III Reserve Officers.
- 9 RESERVE POLICE STAFF OFFICER: A Reserve Staff Officer is a Level I Officer, appointed by the Chief, based upon the recommendation of the Director and Patrol Division Command Staff, to assist in the administration and operation of the Berkeley Police Reserve. Staff officers may act in the capacity of Reserve supervisors at the request of the Director.
- 10 ASSISTANT TO THE DIRECTOR: The Assistant to the Director is a staff officer who may serve as the Director in the absence of the Director and who may also assist the Director in the administration, organization, planning and operation of the Berkeley Reserve. The Assistant to the Director is appointed by the Chief, based upon the recommendation of the Director and Patrol Division Command Staff.
- 11 PLATOON LEADER (If appointed): A Platoon Leader is a staff officer appointed by the Director to assist in the administration and operation of a reserve platoon. Platoon leaders will be appointed by the Chief, based upon the recommendation of the Director and Patrol Division Command Staff.
- 12 ASSISTANT PLATOON LEADER (If appointed): An Assistant Platoon Leader is a staff officer who acts as a Platoon Leader in the absence of his/her Platoon Leader and assists the Platoon Leader in the operation of a reserve platoon. Assistant Platoon Leaders will be appointed by the Chief, based upon the recommendation of the Director and Patrol Division Command Staff.
- 13 RESERVE PLATOON (If applicable): A Reserve Platoon is a unit to which Reserve officers may be assigned for designated operations or events.
- 14 SUPPORT ACTIVITY: Support activity consists of the full range of duties within the Police Department to which a Reserve officer may be assigned, including training.

PROCEDURES

- 15 RECRUITMENT: The same procedures employed in the recruitment, testing and selection of regular officers shall apply for reserve officers. Additionally, reserve applicants must complete P.O.S.T. Peace Officer Orientation Modules I, II, or III or the P.O.S.T. Basic Academy prior to being appointed as a Reserve officer.

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- 16 **TRAINING:** Within one year of appointment, Level I or II Reserve officers must successfully complete the regular Departmental Field Training Program.
- (a) All Reserve officers shall participate in mandated training such as Departmental firearms training and monthly Reserve officer training.
 - (1) Failure to participate in mandated training may result in termination, suspension or restricted status.
 - (b) Any Level I or II Reserve officer who is inactive for a protracted period of time shall go through a field training update similar to that used upon the return of a regular officer to the Department after being reinstated to the Department.
- 17 **SUPPORT ACTIVITY:** Reserve officers, unless excused by the Director, shall engage in a minimum of sixteen hours of support activity per month.
- 18 **EMERGENCY CALLOUTS:** One of the primary reasons for the Department having a Reserve Program is to have a trained force that can respond in the event of an emergency such as a large fire, earthquake, riot or other such natural or civil emergency. For this reason, it is assumed that, within reason, Reserve officers will respond in the event of an emergency.
- 19 **TEMPORARY LEAVE:** Any Reserve officer who will be unavailable for emergency response shall notify the Reserve Office in a timely manner regarding his/her unavailability. Being unavailable shall be known as "red-tagged."
- (a) Normal and acceptable use of red tagging would be for business trips, vacations or illness.
 - (b) Should exceptional circumstances occur, such as extended illness, military service, temporary change in business assignment, etc., a Reserve officer may be "red tagged" for a protracted period of time and then, only with the approval of the Director.
- 20 **SIGN-IN/OUT PROCEDURES:** At the beginning of each tour of duty, Reserve officers shall sign in on the Reserve Support Activity Log, indicating the nature of activity, and sign out at the conclusion of the tour.
- (a) Reserve officers shall report to the supervisor of the activity that they are assigned to work, prior to working. Reserve officers working patrol shall determine which patrol team they are working with and report to the patrol supervisor of that team, as well as to the communications center, prior to working. If a Reserve officer works beyond that patrol team's hours and

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onto another team, then the Reserve officer shall report to the subsequent patrol sergeant as well. Conversely, they shall report to the supervisor of that activity at the conclusion of the activity/tour.

- 21 **UNIFORM:** The uniform for Reserve Officers shall be the same as that of a regular officer.
- (a) Reserve badges shall have three digits, beginning with either 6 or 7.
 - (b) Reserve officers are not required to have a Class A dress jacket.

CARRYING A FIREARM

- 22 **Berkeley Police Reserve officers shall be allowed to carry a firearm when off duty as a Level 1 or 2 Reserve Officer and will be issued a CCW endorsement on their Departmental ID cards.**

TAKING POLICE REPORTS

- 23 Cases to which a Reserve Officer may be assigned to are as follows:
- (a) Vehicle collision reports, including citing the responsible party if the Reserve Officer has met the requirements of Vehicle code Section 40600.
 - (b) Parking violations.
 - (c) Lost/found property reports.
 - (d) Animal bite reports where the follow-up is reassigned to Animal Services.
 - (e) Non-Criminal Incident reports
 - (f) Miscellaneous Service Complaints.
 - (g) Traffic control, including issuing citations for moving violations.
 - (h) Supplemental reports based on incidents, witnesses, neighborhood checks, etc.
 - (i) Booking forms, including Consolidated arrest Reports, Juvenile Responsibility forms, Notice to Parents, etc.
 - (j) Transportation details, including Alameda County Hospital (Highland), Alta Bates Hospital, Juvenile Hall, etc.

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- (k) Hit and run misdemeanor cases with no viable leads.
 - (l) Auto burglary, theft from auto cases, and malicious damage to vehicles with no viable leads.
 - (m) Abandoned autos. If necessary to comply with 72-hour follow-up requirements, the follow-up will be assigned to the Community Service Officer (CSO) assigned to tows.
- 24 Unless sworn supervisory approval is obtained, or a standing agreement exists between a Reserve and the Reserve Director, Reserve officers, due to assigned/handling officer follow-up responsibilities, shall not be assigned to the following types of offenses:
- (a) Auto burglary, theft from auto cases, and malicious damage to vehicle with leads.
 - (b) All misdemeanor assault/battery cases.
 - (c) Felony hit and run cases and misdemeanor hit and run cases with leads.
 - (d) Adult missing person cases.
 - (e) Juvenile missing person cases.
- 25 Unless sworn supervisor approval is obtained, or a standing agreement exists between a Reserve officer and a supervisor, Reserve Officers shall not be assigned as primary investigators on felony offenses.

ARRESTS BY RESERVE OFFICERS

- 26 Absent exigent circumstances, all arrests made by Reserve officers shall be approved by a Patrol Sergeant prior to leaving the scene of the arrest, and in all cases prior to booking.

RETIREMENT FROM THE BERKELEY RESERVE POLICE PROGRAM

- 27 Retirement is an honorary status that does not include any pension, benefits, or privileges usually associated with Peace Officer Retirements. Retired Berkeley Police Reserve Officers are authorized to carry concealed weapons based on their honorary retirement status (See GO R-37 Retiree Concealed Firearms). Reserve Officers will be eligible for retirement upon meeting any of the requirements listed below :
- (a) May retire at age 50 with ten (10) years of continuous service.

*Highlighted text is new.

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- (b) May retire with twenty (20) years of service at any age.
 - (c) In the event of medical disability, a Reserve may retire at any age with ten (10) years of continuous service. If the disability occurs while working as a Reserve, there will be no time requirement.
- 28 This General Order cancels and replaces Berkeley Police Reserve Information Bulletins previously issued, as well as any other memoranda or orders that are in conflict with it.

References: BPD Reserve Manual
BPD Field Training Officer Manual
CALEA Standards
Penal Code Sections 830.6 (a) (1), 830.6 (a) (2)
P.O.S.T. Administrative Regulations
BPD Special Order No. 91-26, "Arrests by Reserve
Police Officer," issued January 1, 1991.

Registered Offender Information

328.1 PURPOSE AND SCOPE

This policy establishes guidelines by which the Berkeley Police Department will address issues associated with certain offenders who are residing in the jurisdiction and how the Department will disseminate information and respond to public inquiries for information about registered sex, arson and drug offenders.

328.2 POLICY

It is the policy of the Berkeley Police Department to identify and monitor registered offenders living within this jurisdiction and to take reasonable steps to address the risks those persons may pose.

328.3 REGISTRATION

The Detective Bureau Lieutenant Supervisor in conjunction with the Jail Sergeant Supervisor shall establish a process to reasonably accommodate required registration of certain offenders. The process should rebut any allegation on the part of the offender that the registration process was too confusing, burdensome or difficult for compliance. Those assigned to register offenders should receive appropriate training regarding the registration process. Once completed, registrations should be routed to an investigator assigned to the Special Victims Unit-related investigations for review and evaluation of any threat the person may pose to the community.

Upon conclusion of the registration process, the investigator shall ensure that the registration information has been provided to the California Department of Justice (DOJ) in accordance with applicable law (Health and Safety Code § 11594; Penal Code § 457.1; Penal Code § 290 et seq.).

The refusal of a registrant to provide any of the required information or complete the process should initiate a criminal investigation for failure to register.

328.3.1 CONTENTS OF REGISTRATION

The information collected from the registering offenders shall include a signed statement as required by the California DOJ, fingerprints and a photograph and any other information required by applicable law (Health and Safety Code § 11594; Penal Code § 457.1; Penal Code § 290 et seq.).

328.4 MONITORING OF REGISTERED OFFENDERS

The Detective Bureau Lieutenant Supervisor should strive to establish a system to periodically, and at least once annually, verify that a registrant remains in compliance with his/her registration requirements after the initial registration. This verification should include:

- (a) Efforts to confirm residence, such as an Internet search, drive-by of the declared residence, or knock-and-talk contact.

-
- (b) Review of information on the California DOJ website for sex offenders.
 - (c) Contact with a registrant's parole or probation officer.

Any discrepancies should be reported to the California DOJ as appropriate, and may result in criminal prosecution.

The Detective Bureau Lieutenant Supervisor should also establish a procedure to routinely disseminate information regarding registered offenders to Berkeley Police Department personnel, including timely updates regarding new or relocated registrants.

328.5 DISSEMINATION OF PUBLIC INFORMATION

Members will not unilaterally make a public notification advising the community of a particular registrant's presence in the community. Members who identify a significant risk or other public safety issue associated with a registrant should promptly advise their supervisor. The supervisor should evaluate the request and forward the information to the Chief of Police if warranted. A determination will be made by the Chief of Police, with the assistance of legal counsel as necessary, whether such a public alert should be made.

Members of the public requesting information on sex registrants should be directed to the Megan's Law website or the Berkeley Police Department's website. Information on sex registrants placed on the Berkeley Police Department's website shall comply with the requirements of Penal Code § 290.46.

The Support Services Division CaptainLieutenant, acting as tThe Public Safety Business Manager, may release local registered offender information to residents only in accordance with applicable law (Penal Code § 290.45; Penal Code § 290.46; Penal Code § 457.1; Health and Safety Code § 11594), and in compliance with a California Public Records Act (Government Code § 6250-6276.48) request.

328.5.1 LIMITED RELEASE WITHIN COLLEGE CAMPUS COMMUNITY

California law allows the following additional information regarding a registered sex offender on campus, whose information is not available to the public via the internet website, to be released to a campus community (Penal Code § 290.01(d)):

- (a) The offender's full name
- (b) The offender's known aliases
- (c) The offender's sex
- (d) The offender's race
- (e) The offender's physical description
- (f) The offender's photograph
- (g) The offender's date of birth
- (h) Crimes resulting in the registration of the offender under Penal Code § 290

-
- (i) The date of last registration

For purposes of this section, campus community shall be defined as those persons present at or regularly frequenting any place constituting campus property, satellite facilities, laboratories, public areas contiguous to the campus and other areas set forth in Penal Code § 290.01(d).

328.5.2 RELEASE NOTIFICATIONS

Registrant information that is released should include notification that:

- (a) The offender registry includes only those persons who have been required by law to register and who are in compliance with the offender registration laws.
- (b) The information is provided as a public service and may not be current or accurate.
- (c) Persons should not rely solely on the offender registry as a safeguard against offenses in their communities.
- (d) The crime for which a person is convicted may not accurately reflect the level of risk.
- (e) Anyone who uses information contained in the registry to harass registrants or commit any crime may be subject to criminal prosecution.
- (f) The purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders (Penal Code 290.45).

BERKELEY POLICE DEPARTMENT

DATE ISSUED: June 22, 2018

GENERAL ORDER D-21

SUBJECT: DNA SAMPLE COLLECTION

PURPOSE

1. The purpose of this policy is to provide guidelines for the collection of DNA evidence from those individuals required to provide such samples under the DNA Fingerprint, Unsolved Crime and Innocence Protection Act, and the State of California DNA Data Bank Program (Penal Code § 295, et seq.).

POLICY

2. Upon a determination that any individual is qualified and required to provide DNA samples under the Act, the arresting officer, jail staff, or other employee designated by a supervisor shall obtain DNA samples in accordance with this policy.

PERSONS SUBJECT TO DNA COLLECTION

3. While the courts may order DNA samples taken in a variety of circumstances under the Act, members of this department are only authorized to obtain DNA samples from the following individuals absent other lawful means (e.g., consent or a search warrant). Only those qualifying individuals whose DNA sample is not currently on file with the Department of Justice may be required to provide samples. Verification of DNA samples on file may be determined by a DNA collection flag on the individual's criminal history record or, during regular business hours, by calling the Department of Justice designated DNA laboratory at (510) 620-3300.
4. All DNA collection flags should be verified by contacting DOJ prior to the collection of the sample (Penal Code § 298(b)(5)).
5. It is a misdemeanor for any qualified individual to refuse to give any or all required DNA samples following written notice of the requirement to do so (Penal Code § 298.1(a)).

ARRESTEES

6. Any adult arrested or charged with any felony offense is required to provide DNA samples. DNA samples should be collected immediately following arrest, or during the booking process, or as soon as administratively practicable after arrest but in any case prior to release on bail or other physical release from custody (Penal Code § 296.1(a)(1)(A)).

SEX AND ARSON REGISTRANTS

7. Any adult or juvenile who is required to register as a sex offender under Penal Code §290 or arsonist under Penal Code § 457.1, including those whose

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registration resulted from a qualifying misdemeanor crime is required to submit a DNA sample. (Penal Code § 296(a)(3)). At the time that any such registrant registers, updates registration, or is notified by the Department of Justice or other law enforcement officer, an appointment shall be made designating the time and place for the collection of DNA samples if no such sample has already been provided (Penal Code § 296.2(c)).

BUCCAL SWABS

8. Buccal swab samples (taken from the inside of the mouth) may only be procured by employees who have successfully completed departmentally approved training in the collection of buccal swabs and with the use of Department of Justice buccal swab collectors. (Penal Code § 298(a) and (b)(3)). A right thumbprint shall be placed on the collector along with other required identifying information.

USE OF FORCE TO OBTAIN SAMPLES

9. If, after a written or oral request, a qualified individual refuses to provide any or all of the required DNA samples, a sworn member of this department may use reasonable force to obtain such sample(s).
10. *For the purpose of this section, the "use of reasonable force" shall be defined as the force that an objective, trained and competent officer faced with similar facts and circumstances would consider necessary and reasonable to gain compliance. (Penal Code § 298.1(c)(1)(A)).*
11. The following conditions must be met prior to proceeding with an involuntary DNA collection procedure:
 - (a) Prior to the use of reasonable force, the officer(s) shall take and document reasonable steps to secure voluntary compliance (Penal Code § 298.1(c)(1)(C)).
 - (b) Prior to the use of reasonable force, the assigned officer shall obtain written authorization from a supervisor using the "Upgraded Search and DNA Collection Request" Form. The narrative on the form shall minimally include that the individual was asked to provide the sample(s) and refused (Penal Code § 298.1(c)(1)(B)).
 - (c) If the authorized use of reasonable force includes an extraction from a jail cell, such extraction shall be videotaped (Penal Code § 298.1(c)(1)(D)).
12. The following employees shall be involved in the administration of an involuntary DNA collection procedure:
 - (a) A sworn supervisor.

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- (b) An assigned officer.
 - (c) An assisting employee.
13. The incident supervisor shall involve as many assisting employees as may be required to ensure the restraint of a qualified individual and to accomplish the DNA collection.
 14. Prior to conducting the DNA collection, the assigned officer shall seek the consent of the qualified individual. The assigned officer will document the refusal in writing, and obtain a sworn supervisor's written authorization before proceeding.
 15. Should the qualified individual refuse the assigned officer's request for consent to collect DNA, the incident supervisor shall explain to the individual that their refusal will result in his/her physical restraint, and that reasonable force may be employed to promote the safety of all involved parties during the impending collection.
 16. Upon authorization of the incident supervisor, employees may employ physical force to restrain a qualified individual who refuses to participate in the DNA collection process.
 17. The incident supervisor shall monitor the restraint process to ensure only reasonable force is employed.
 18. If confronted with violent resistance, the incident supervisor may elect to terminate the procedure, and develop an alternate plan for the DNA collection. This section does not negate employees' duty to respond appropriately to physical assaults, or to prevent injury to involved parties if assaulted by the qualified individual.
 19. When available and practical, restraint equipment should be employed, if its use would enhance the safety of persons involved in an involuntary DNA collection process.
 20. "Restraint equipment", as used in this Order, may include, but is not limited to, a padded phlebotomy chair, a hospital gurney equipped with soft-restraints, and "The Wrap" restraint device.
 21. The use of restraint equipment shall not preclude the physical restraint of a qualified individual's person by an employee(s) if such action is necessary to mitigate the potential for injury.
 22. Should employees employ physical force to overcome a qualified individual's violent resistance to the DNA collection process, the incident supervisor shall adhere to "Use of Force" reporting protocols described in General Order U-2.

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23. The arresting officer shall document in the criminal investigation report the conduct of a qualified individual during the DNA collection procedure.
24. In the event a qualified individual is injured, or complains of injury, as a result of police action, the incident supervisor shall ensure the medical service protocols described in General Order A-17 are followed.

EXPUNGEMENT FROM CAL-DNA DATA BANK

25. **California Penal Code section 299 sets forth the criteria for DNA Database sample expungement. Expungement can be accomplished easily and quickly when a DNA sample qualifies for removal from the State database and a person provides sufficient documentation of his/ her identity, legal status and criminal history to the California Department of Justice, DNA Database Program (CAL-DNA). A petitioner whose sample qualifies for DNA database sample expungement and who provides appropriate documentation can expedite the process so that neither a court hearing, nor a 180-day waiting period permitted by Section 299, likely will be necessary.**
26. **If CAL-DNA receives sufficient documentation showing that an individual meets the criteria for expungement of his or her DNA sample, CAL-DNA will review and research the request and issue a response to the petitioner indicating that the expungement was completed and the sample destroyed, or notify the petitioner of the legal reason the Department is required to retain the sample and profile.**
27. **A form to request CAL-DNA to expunge a DNA database sample and profile can be obtained by contacting the California Office of the Attorney General. The Attorney General's website is <https://oag.ca.gov> or a petitioner can call 800-952-5225. The form to request the expungement is the "Streamlined DNA Expungement Application Form" (State of California DLE 244). Expungement of a DNA sample and profile are the responsibility of the Department of Justice. The Berkeley Police Department has no influence on this decision.**

References:

California Penal Code §§ 290, 295, 296(a), 296.1, 296.2, 298, 298.1, 299, 457.1
General Orders A-17, P-65, U-2

BERKELEY POLICE DEPARTMENT

DATE ISSUED: August 6, 2004

GENERAL ORDER M-6

**SUBJECT: PUBLIC DISSEMINATION OF REGISTERED SEX OFFENDER
INFORMATION BY LAW ENFORCEMENT**

PURPOSE

- 1 - The purpose of this Order is to establish Law Enforcement procedure for public dissemination of information regarding certain registered sex offenders. Disclosure of this information is regulated under Penal Code Sections 290 and 290.4, or Megan's Law.

POLICY

- 2 - Although not required by law, it is the policy of the Berkeley Police Department to proactively notify the community about "high risk sex offenders" after verification has been made of their residency and registration status. The Department may also proactively disseminate information about "serious sex offenders" to the citizens of Berkeley who are reasonably determined to be at risk as potential victims.

Only information pertaining to the particular sex crime(s) listed under 290.4 PC, shall be disclosed regarding individuals classified as "high risk sex offenders" or "serious sex offenders". Other violent crimes that the individual may have been convicted of or arrested for shall not be disclosed.

DEFINITION OF CATAGORIES

- 3 - The California Department of Justice (DOJ) has categorized each registered sex offender as either a "high risk sex offender", "serious sex offender" or "other sex offender".
- 4 - High Risk Sex Offenders:
 - a. "High risk offenders" are "serious sex offenders" who have been identified by the Department of Justice (DOJ) as having a higher risk of re-offending and who may pose a greater danger to the public. "High risk offenders" have been convicted of multiple violent offenses, at least one of which was a violent sex crime. Additionally, at the time of assessment, there must have been specified criminal activity within the last five years, not counting time spent in custody.
- 5 - Serious Sex Offenders:
 - a. "Serious sex offenders" are registrants who have been convicted of a felony sex offense (except those listed in the "other sex offender" category).
 - (1) "Serious sex offenders" have been convicted of at least one of the

Entire text is revised.

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following charges: assault with intent to commit rape, rape, sodomy with a minor or sodomy by force, lewd or lascivious conduct with a child or dependant adult, oral copulation with a minor or by force, continuous sexual abuse of a child, child molestation, penetration with a foreign object, kidnapping with intent to commit specific sex offenses, felony sexual battery, felony enticement or abduction of a child for purposes of prostitution.

- b. Also included in this category are misdemeanor convictions for child molestation. PC 647.6 and 288(c).
- 6 - Other Sex Offenders:
- a. "Other sex offenders" are misdemeanants, and those felons convicted of repeated indecent exposure, pornography, and related offenses of spousal rape.
 - (1) "Other sex offenders" have been convicted of at least one of the following charges: pornography, exhibitionism, misdemeanor sexual battery, incest, and spousal rape.
- 7 - Officers can determine the category of an offender by accessing:
- a. The Department of Justice (DOJ) Violent Crime Information Network/ Supervised Release File (VCIN) via CLETS.
 - b. Contacting the Sex Crimes Unit, or
 - c. Contacting the DOJ directly.

FIELD OFFICER DISSEMINATION OF "HIGH RISK SEX OFFENDER" AND "SERIOUS SEX OFFENDER" INFORMATION

- 8 - Field officers may release the below listed information on "high risk sex offenders" and "serious sex offenders" to a person or persons, school, day-care provider, or organization that primarily serves the likely victims(s) when first approved by a supervisor and:
- a. The officer reasonably suspects, based on information that has come to his/her attention, that a person or persons in one of the above schools, day-care providers or organizations may be at risk from a "high risk sex offender" or "serious sex offender", and the offender is likely to encounter the above listed people. PC 290.45(a)(1).
 - (1) "Reasonably suspects" means it is objectively reasonable for an officer, based on his or her training and the present circumstances of the case, to believe that a person would be at risk. PC

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290.45(a)(7)

- (2) "At risk" means a person is or may be exposed to the risk of becoming a victim of a sex offense by the offender. PC 290.45(a)(8)
- (3) "Likely to encounter" means that the person is in a location or close proximity to a location where the offender lives, is employed, visits or is likely to visit on a regular basis; that contact with the offender is reasonably probable. PC 290.45(a)(6)

- 9 - When these conditions are met the field officer shall inform a supervisor of the circumstances and obtain approval prior to disseminating any information to the public.
 - a. The action must be documented in the police report.
 - b. The sex offender's residence or business address shall not be disclosed under any circumstances without prior approval of the Sex Crimes Detail.
 - (1) If the Sex Crimes Detail authorizes disclosure an officer must first be sent to the offender's residence or business address to verify that the offender in fact lives or works there.

FIELD OFFICER DISSEMINATION OF "OTHER SEX OFFENDER" INFORMATION

- 10 - Information regarding individuals classified as "other sex offenders" shall not be released to the public.

INFORMATION ON "HIGH RISK SEX OFFENDERS" AND "SERIOUS SEX OFFENDERS" THAT CAN BE RELEASED TO THE PUBLIC

- 11 - When authorized, the following information regarding "high risk" and "serious" sex offenders can be disclosed, PC 290.45(4).
 - a. Offender's full name, including known aliases
 - b. Offender's race, sex, age and date of birth
 - c. Offender's physical description
 - d. Offender's photograph
 - e. Descriptions and license plate numbers of the offender's vehicle or vehicles the offender is known to drive.
 - f. Crimes resulting in registration and the date the offence occurred. NO OTHER CRIMINAL HISTORY SHALL BE RELEASED.

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- g. Type of victim targeted by the offender
- h. Method of operation
- i. Relevant parole or probation conditions
- j. Dates of release from confinement
- k. The general area where the offender lives or works, street name or nearby cross street.

- (1) The offender's exact address shall not be released without verification and the approval of the Sex Crimes Detail.

INFORMATION ON SEX OFFENDERS THAT SHALL NOT TO BE RELEASED TO THE PUBLIC

12 - The following sex offender information shall not be released:

- a. Information regarding those classified as "other sex offenders" shall not be released.
- b. Information that identifies any victim shall not be disclosed.
- c. Information identifying an area where a "high risk" or "serious" sex offender lives or works shall not be disclosed without first verifying the offender's address and obtaining approval from the Sex Crimes Detail.
- d. Legal advice shall not be given to the public or media regarding registered sex offenders.

NUMBERED REPORT REQUIRED

13 - Regardless of whether or not information is disseminated, the field officer who encounters individuals suspected of being a sex registrant shall document the circumstances in a numbered police report with copies directed to the Sex Crimes Detail. The report should include the following information.

- a. The circumstances resulting in the sex offender coming to police attention.
 - (1) If these circumstances are already documented in a numbered police report, then a second report is NOT required.
- b. Name and identifying information of the sex offender.
- c. The sex offender's home and work address and whether the address was verified.

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- d. Description of vehicles owned or used by the sex offender.
 - e. Locations the offender is known to frequent.
- 14 - If information about a sex offender is disseminated:
- a. Explain why, and if, prior approval was obtained by a supervisor. Do not release information about crimes other than sex crimes that the state has authorized for disclosure under Megan's Law.
 - b. Include the names and addresses of the person(s) or organization notified about the sex offender.
 - c. Include in the report that the individuals notified were told that the information was being provided to protect the public.
 - d. Complete a "Megan's Law Disclosure Form" and attach to the report.
 - (1) See attached example.
 - e. Copies of the report shall be routed to the Youth Services Detail if the case involves a child molester.
- 15 - The Sex Crimes Detail will determine if further notifications are to be made.

UNIFORM NOTIFICATION

- 16 - The methods utilized to notify institutions, individuals, or other community members are intended to be uniformly applied.
- a. Information should be directed to those at risk. Examples of situations where notification may be appropriate:
 - (1) Persons living in close proximity to an offender
 - (2) A woman who resides on the same block as a rapist
 - (3) Parents of a child living near a park where an offender is known to frequent.
 - b. The notification may only be as broad as is necessary for the protection of the public.

PUBLIC DISCLOSURE REQUIRED WARNINGS

- 17 - Each public disclosure by the Department, or field officer, must be accompanied by the following statement:

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- a. The purpose of the release of this information is to allow members of the public to protect themselves and their children from sex offenders. PC 290.45(5).
- b. The public shall be advised that use of this information for purposes other than to protect a person who may be at risk is unlawful.

SEX OFFENDER NOTIFICATION

- 18 - Prior to disclosing "high risk sex offender" or "serious sex offender" information to the public an attempt to notify the offender should be made regarding the public release of information.

SUPERVISED RELEASE FILE

- 19 - Field officers who contact "high risk sex offenders" or "serious sex offenders" should ensure that the contact is entered into the offender's Supervised Release File, via CLETS.
- a. This is accomplished by submitting a written request to the Communications Center who in turn generates the "contact message"
 - b. The message to the Communications Center should detail a brief account of your contact with the offender. What brought you into contact with him/her and the resulting action taken.

TELEPHONE INQUIRIES

- 20 - Department of Justice (DOJ) public phone number for sex offender information.
- a. The public can use the following number, (900) 448-3000, for a fee, to obtain registered sex offender information. This line is maintained and operated by the Department of Justice, DOJ.

Reference: Penal Code Sections 290, 290.45

Death Investigation

330.1 PURPOSE AND SCOPE

The investigations of cases involving death include those ranging from natural cause to homicide. Some causes of death may not be readily apparent and some cases differ substantially from what they appeared to be initially. The thoroughness of death investigations cannot be emphasized enough.

330.2 DEATH FROM NATURAL CAUSES

If a death results from natural causes and a licensed physician will sign the death certificate, contact the Coroner. Advise the Coroner's Office of the circumstances and follow their directions.

330.3 SUSPICIOUS DEATH

If a death results from suicide, a non-criminal cause or natural cause when no licensed physician is qualified to sign the death certificate, the assigned officer shall:

- (a) Investigate the circumstances surrounding the death.
- (b) Consult with a patrol sergeant at the scene.
- (c) Notify the Coroner.
- (d) Witness the search of the body by the Deputy Coroner and obtain a receipt for the body and personal effects.

330.2330.4 INVESTIGATION CONSIDERATIONS

Death investigation cases require certain actions be taken. Paramedics shall be called in all suspected death cases unless the death is obvious (e.g., decapitated, decomposed). A supervisor shall be notified in all death investigations.

330.3330.5 CORONER REQUEST

Government Code § 27491 and Health & Safety Code § 102850 direct the Coroner to inquire into and determine the circumstances, manner and cause of certain deaths. The Coroner shall be called in any of the following cases:

- (a) Unattended deaths (No physician in attendance or during the continued absence of the attending physician. Also, includes all deaths outside hospitals and nursing care facilities).
- (b) Deaths where the deceased has not been attended by either a physician or a registered nurse, who is a member of a hospice care interdisciplinary team, as defined by Health and Safety Code § 1746 in the 20 days prior to death.
- (c) Physician unable to state the cause of death. Unwillingness does not apply. Includes all sudden, unexpected and unusual deaths and fetal deaths when the underlying cause is

unknown.

- (d) Known or suspected homicide.
- (e) Known or suspected suicide.
- (f) Involving any criminal action or suspicion of a criminal act. Includes child and dependent adult negligence and abuse.
- (g) Related to or following known or suspected self-induced or criminal abortion.
- (h) Associated with a known or alleged rape or crime against nature.
- (i) Following an accident or injury (primary or contributory). Deaths known or suspected as resulting (in whole or in part) from or related to accident or injury, either old or recent.
- (j) Drowning, fire, hanging, gunshot, stabbing, cutting, starvation, exposure, alcoholism, drug addiction, strangulation or aspiration.
- (k) Accidental poisoning (food, chemical, drug, therapeutic agents).
- (l) Occupational diseases or occupational hazards.
- (m) Known or suspected contagious disease and constituting a public hazard.
- (n) All deaths in operating rooms and all deaths where a patient has not fully recovered from an anesthetic, whether in surgery, recovery room or elsewhere.
- (o) In prison or while under sentence. Includes all in-custody and officer police involved deaths.
- (p) All deaths of unidentified persons.
- (q) All deaths of state hospital patients.
- (r) Suspected Sudden Infant Death Syndrome (SIDS) deaths or Sudden Unexplained Infant Death.
- (s) All deaths where the patient is comatose throughout the period of the physician's attendance. Includes patients admitted to hospitals unresponsive and expire without regaining consciousness.

The body shall not be disturbed or moved from the position or place of death without permission of the coroner.

330.3-1330.5.1 SEARCHING DEAD BODIES

The Coroner or Deputy Coroner is generally the only person permitted to search a body known to be dead from any of the circumstances set forth in Government Code § 27491. The only exception is that an officer is permitted to search the body of a person killed in a traffic collision for the limited purpose of locating an anatomical donor card (Government Code § 27491.3). If such a donor card is located, the Coroner or a designee shall be promptly notified. Should exigent circumstances indicate to an officer that any search of a known dead body is warranted prior to the arrival of the Coroner or a designee; the investigating officer shall first obtain verbal consent from the Coroner or a designee (Government Code § 27491.2).

Whenever possible, a witness, preferably a relative to the deceased or a member of the household,

should be requested to remain at the scene with the officer pending the arrival of the Coroner or a designee. The name and address of this person shall be included in the narrative of the death report. Whenever personal effects are removed from the body of the deceased by the Coroner or a designee, a receipt shall be obtained. This receipt shall be attached to the death report.

330.3.2330.5.2 DEATH NOTIFICATION

The Coroner is responsible for notifying relatives or friends of the deceased, but department members shall assist as requested. When practical, and if not handled by the Coroner's Office, notification to the next-of-kin of the deceased person should be made, in person, by the supervisor/officer assigned to the incident.

If the next-of-kin lives in another jurisdiction, a law enforcement official from that jurisdiction shall be requested to make the personal notification. If the relatives live outside this county, the Coroner may be requested to make the notification. The Coroner and any assigned detectives shall be advised if the next-of-kin notification has been made. Any notifications made, or requests for notifications, shall be documented in the associated report. ~~needs to know if notification has been made. Assigned detectives may need to talk to the next-of-kin.~~

330.3.3330.5.3 UNIDENTIFIED DEAD BODIES

If the identity of a dead body cannot be established after the Coroner arrives, the Coroner's office will issue a "John Doe" or "Jane Doe" number for the report.

330.3.4330.5.4 DEATH INVESTIGATION REPORTING

All incidents involving a death shall be documented on the appropriate form.

330.3.5330.5.5 SUSPECTED HOMICIDE

If the initially assigned officer suspects that the death involves a homicide or other suspicious circumstances, the Detective Bureau Lieutenant and the Investigations Homicide Detail Sergeant, or his/her designee, Division— shall be notified to determine the possible need for a detective/detectives to respond to the scene for further immediate investigation.

Pending the arrival of the Homicide Detail, the assigned officer shall investigate the circumstances surrounding the death, including but not limited to obtaining statements, securing the scene, gathering evidence and making arrests.

330.3.6330.5.6 EMPLOYMENT RELATED DEATHS OR INJURIES

Any member of this agency who responds to and determines that a death, serious illness, or serious injury has occurred as a result of an accident at or in connection with the victim's employment shall ensure that the nearest office of Cal-OSHA is notified by telephone immediately or as soon as practicable with all pertinent information (8 CCR 342(b)).

BERKELEY POLICE DEPARTMENT

DATE ISSUED: July 6, 1990

GENERAL ORDER E-9

SUBJECT: EMERGENCY MESSAGES AND NOTIFICATIONS

PURPOSE

- 1 - The purpose of this General Order is to establish a policy for delivering emergency messages and notification of next of kin in cases involving seriously injured, ill or deceased persons.

POLICY

- 2 - Berkeley Police Department employees may deliver emergency messages, or make death or injury/illness notifications with the approval of a Patrol or Communications Supervisor, when other reasonable efforts by other agencies or persons have been exhausted.

PROCEDURES

Emergency Messages

- 3 - Requests from outside agencies for the delivery of emergency messages will generally be honored, with the approval of a Patrol or Communications Supervisor. Requests from private parties will be honored only when all other practical means have failed, and with the approval of a Patrol or Communications Supervisor.

Death Notifications

- 4 - Notification of the next of kin in situations of death should be handled by the Alameda County Coroner's Office. Requests from outside coroner's offices should be directed to the Alameda County Coroner's Office. Requests from the Alameda County Coroner's Office shall be handled in the same manner as a request from an outside agency.

Injury or Illness Notifications

- 5 - Notification of the next of kin in situations involving hospitalized persons should be made by a representative of the hospital, administering aid to the injured or ill person. Requests from a hospital should be handled in the same manner as a request from a private party for the delivery of an emergency message.

Reference: CALEA Standards

BERKELEY POLICE DEPARTMENT

DATE ISSUED: June 16, 1989

GENERAL ORDER O-1

SUBJECT: DEAD BODY REPORTS, INVESTIGATION OF

PURPOSE

- 1 - The purpose of this General Order is to outline procedures for the investigation of incidents where a death has occurred.

POLICY

- 2 - Officers are expected to carefully evaluate the circumstances surrounding reports of dead body incidents and follow the guidelines described in this General Order.

PROCEDURES

- 3 - A dead body is the physical remains of a human being pronounced dead by a licensed physician or bearing unmistakable evidence of death.
 - (a) Any doubt concerning death shall be resolved by removing the body to the emergency hospital for medical determination.
- 4 - A licensed physician qualified to sign the death certificate is one who has been treating the deceased and has seen him/her as a patient within 20 days prior to death.

DEATH FROM NATURAL CAUSES

- 5 - If death results from natural causes and a licensed physician will sign the death certificate, contact the Coroner. Advise the Coroner's Office of the circumstances and follow their directions.

SUSPICIOUS DEATH

- 6 - If death results from suicide, a non-criminal cause or natural cause when no licensed physician is qualified to sign the death certificate, the assigned officer shall:
 - (a) Investigate the circumstances surrounding the death.
 - (b) Consult with a Patrol Sergeant at the scene.
 - (c) Notify the Coroner.
 - (d) Witness the search of the body by the Deputy Coroner and obtain a receipt for the body and personal effects.

DEATH FROM CRIMINAL ACTS

BERKELEY POLICE DEPARTMENT

DATE ISSUED: June 16, 1989

GENERAL ORDER 0-1

- 7 - If death results from any criminal act, the assigned officer shall:
- (a) Immediately notify the on-call Homicide Inspector or Detective; if neither can be reached, the Detective Division Captain or the senior Inspector available.
 - (b) Pending arrival of the Inspector/Detective, investigate the circumstances surrounding the death, including but not limited to photographs and diagrams, obtaining statements, securing the scene, gathering evidence and making arrests.
- 8 - Upon arrival the Inspector/Detective shall assume charge of the investigation and shall:
- (a) Notify the Coroner.
 - (b) Witness the search of the body by the Deputy Coroner and obtain a receipt for the body and personal effects.

GENERAL INVESTIGATION

- 9 - A dead body shall not be moved until the investigation has progressed to the extent which will allow such removal without loss of physical or photographic evidence.
- 10 - Government Code Section 27491.3 states, "In any death into which the Coroner is to inquire...it shall be unlawful for any person to search for or remove any papers, moneys, valuable property, or weapons...from the person of the deceased or from the premises, prior to arrival of the Coroner or without his permission..."
- (a) However, subsection (d) of that law states, "A peace officer may search the person or property...whose death is due to a traffic accident, for a drivers license or identification card to determine if an anatomical donor card is attached...shall immediately furnish such information to the coroner...".
- 11 - The assigned Inspector/Detective shall prepare the crime report, Offense Form, in all cases described in paragraph 5.
- 12 - The assigned Inspector/Detective shall copy the case for Alameda County Coroner, in all cases described in paragraphs 4 and 5.
- 13 - The Homicide Inspector/Detective shall review all dead body reports to determine that the investigation is adequate and complete.
- 14 - All receipts shall be attached to the master case.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: June 16, 1989

GENERAL ORDER O-1

DOCUMENTARY EVIDENCE

- 15 - In all cases described in paragraphs 4 and 5 all notes, letters or other documents apparently written by the deceased shall be given to the Deputy Coroner with the body and a receipt shall be obtained. The Coroner will provide this Department with facsimile copies of such documents which include those:
- (a) Tending to indicate an intention by the writer to take his/her life.
 - (b) Containing directions for the disposition of his/her property or the disposal of his/her remains.
- 16 - Any notes, letters or other documents discovered subsequent to the removal of the body shall be given to the assigned Inspector/Detective, who will forward them to the Coroner and obtain a receipt.

NOTIFICATION

- 17 - The Coroner is responsible for notifying relatives or friends of the deceased, but we shall assist as requested.

References: General Orders D-2, E-9, and R-31
Government Code Section 27491

Identity Theft

331.1 PURPOSE AND SCOPE

Identity theft is a growing trend that frequently involves related crimes in multiple jurisdictions. This policy is intended to provide guidelines for the reporting and investigation of such crimes.

331.2 REPORTING

- (a) In an effort to maintain uniformity in reporting, officers presented with the crime of identity theft (Penal Code § 530.6) shall initiate a report for victims residing within the jurisdiction of this department when the crime occurred. For incidents of identity theft occurring outside this jurisdiction, officers should observe the following:
 1. For any victim not residing within this jurisdiction, the officer may either take a courtesy report to be forwarded to the victim's residence agency or the victim should be encouraged to promptly report the identity theft to the law enforcement agency where he or she resides.
- (b) While the crime of identity theft should be reported to the law enforcement agency where the victim resides, officers of this department should investigate and report crimes occurring within this jurisdiction which have resulted from the original identity theft (e.g., the identity theft occurred elsewhere, but the credit card fraud occurred and is reported in this jurisdiction).
- (c) Officers should include all known incidents of fraudulent activity (e.g., credit card number applied for in victim's name when the victim has never made such an application).
- (d) Officers should also cross-reference all known reports made by the victim (e.g., U.S. Secret Service, credit reporting bureaus, U.S. Postal Service and DMV) with all known report numbers.
- (e) The reporting officer should inform victims of identity theft that the California Identity Theft Registry is available to help those who are wrongly linked to crimes. The registry can be checked by law enforcement and other authorized persons to investigate whether a criminal history or want was created in the victim's name (Penal Code § 530.7). Information regarding the California Identity Theft Registry can be obtained by calling toll free (888) 880-0240.
- (f) Following supervisory review and departmental processing, the initial report should be forwarded to the appropriate detective for follow up investigation, coordination with other agencies and prosecution as circumstances dictate.

Communications with Persons with Disabilities

332.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with disabilities, including those who are deaf or hard of hearing, have impaired speech or vision, or are blind.

332.1.1 DEFINITIONS

Definitions related to this policy include:

Auxiliary aids - Tools used to communicate with people who have a disability or impairment. They include, but are not limited to, the use of gestures or visual aids to supplement oral communication; a notepad and pen or pencil to exchange written notes; a computer or typewriter; an assistive listening system or device to amplify sound; a teletypewriter (TTY) or videophones (video relay service or VRS); taped text; qualified readers; or a qualified interpreter.

Disability or impairment - A physical or mental impairment that substantially limits a major life activity, including hearing or seeing, regardless of whether the disabled person uses assistive or adaptive devices or auxiliary aids. Individuals who wear ordinary eyeglasses or contact lenses are not considered to have a disability (42 USC § 12102).

Qualified interpreter - A person who is able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include oral interpreters, translators, sign language interpreters and intermediary interpreters.

332.2 POLICY

It is the policy of the Berkeley Police Department to reasonably ensure that people with disabilities, including victims, witnesses, suspects and arrestees have equal access to law enforcement services, programs and activities. Members must make efforts to communicate effectively with individuals with disabilities.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon disabilities.

332.3 AMERICANS WITH DISABILITIES (ADA) COORDINATOR

The Chief of Police shall delegate certain responsibilities to the Audit and Inspection Sergeant who shall act as an ADA Coordinator (28 CFR 35.107). ~~The ADA Coordinator shall be appointed by, and directly responsible, to the Operations Division Commander or the authorized designee.~~

The responsibilities of the ADA Coordinator shall include, but not be limited to:

- (a) Working with the City ADA coordinator regarding the Berkeley Police Department's efforts to ensure equal access to services, programs and activities.
- (b) Developing reports, new procedures, or recommending modifications to this policy.

- (c) Acting as a liaison with local disability advocacy groups or other disability groups regarding access to department services, programs and activities.
- (d) Ensuring that a list of qualified interpreter services is maintained and available to each Watch Commander and Communications Center Manager. The list should include information regarding the following:
 - 1. Contact information
 - 2. Availability
- (e) Developing procedures that will enable members to access auxiliary aids or services, including qualified interpreters, and ensure the procedures are available to all members.
- (f) Ensuring signage is posted in appropriate areas, indicating that auxiliary aids are available free of charge to people with disabilities.
- (g) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs and activities.

332.4 FACTORS TO CONSIDER

Because the nature of any law enforcement contact may vary substantially from one situation to the next, members of this department should consider all information reasonably available to them when determining how to communicate with an individual with a disability. Members should carefully balance all known factors in an effort to reasonably ensure people who are disabled have equal access to services, programs and activities. These factors may include, but are not limited to:

- (a) Members should not always assume that effective communication is being achieved. The fact that an individual appears to be nodding in agreement does not always mean he/she completely understands the message. When there is any doubt, members should ask the individual to communicate back or otherwise demonstrate their understanding.
- (b) The nature of the disability (e.g., deafness or blindness vs. hard of hearing or low vision).
- (c) The nature of the law enforcement contact (e.g., emergency vs. non-emergency, custodial vs. consensual contact).
- (d) The availability of auxiliary aids. The fact that a particular aid is not available does not eliminate the obligation to reasonably ensure access. However, in an emergency, availability may factor into the type of aid used.

332.5 INITIAL AND IMMEDIATE CONSIDERATIONS

Recognizing that various law enforcement encounters may be potentially volatile and/or emotionally charged, members should remain alert to the possibility of communication problems.

Members should exercise special care in the use of all gestures, and verbal and written communication to minimize initial confusion and misunderstanding when dealing with any individual with known or suspected disabilities.

In a non-emergency situation, when a member knows or suspects an individual requires assistance to effectively communicate, the member shall identify the individual's choice of auxiliary aid or service.

The individual's preferred communication method must be honored unless another effective method of communication exists under the circumstances (28 CFR 35.160).

Factors to consider when determining whether an alternative method is effective include:

- (a) The methods of communication usually used by the individual.
- (b) The nature, length and complexity of the communication involved.
- (c) The context of the communication.

In emergency situations involving an imminent threat to the safety or welfare of any person, members may use whatever auxiliary aids and services that reasonably appear effective under the circumstances. This may include, for example, exchanging written notes or using the services of a person who knows sign language but is not a qualified interpreter, even if the person who is deaf or hard of hearing would prefer a qualified sign language interpreter or another appropriate auxiliary aid or service. Once the emergency has ended, the continued method of communication should be reconsidered. The member should inquire as to the individual's preference and give primary consideration to that preference.

If an individual who is deaf, hard of hearing or has impaired speech must be handcuffed while in the custody of the Berkeley Police Department, consideration should be given, safety permitting, to placing the handcuffs in the front of the body to facilitate communication using sign language or writing.

332.6 TYPES OF ASSISTANCE AVAILABLE

Berkeley Police Department members shall never refuse to assist an individual with disabilities who is requesting assistance. The Department will not charge anyone to receive auxiliary aids, nor shall they require anyone to furnish their own auxiliary aid or service as a condition for receiving assistance. The Department will make every reasonable effort to provide equal access and timely assistance to individuals who are disabled through a variety of services.

A person who is disabled may choose to accept department-provided auxiliary aids or services or they may choose to provide their own.

Department-provided auxiliary aids or services may include, but are not limited to, the assistance methods described in this policy.

332.7 AUDIO RECORDINGS AND ENLARGED PRINT

The Department may develop audio recordings to assist people who are blind or have a visual impairment with accessing important information. If such a recording is not available, members may read aloud from the appropriate form, for example a personnel complaint form, or provide forms with enlarged print.

332.8 QUALIFIED INTERPRETERS

A qualified interpreter may be needed in lengthy or complex transactions (e.g., interviewing a victim, witness, suspect or arrestee), if the individual to be interviewed normally relies on sign language or speechreading (lip-reading) to understand what others are saying. The qualified interpreter should not be a person with an interest in the case or investigation involving the disabled individual. A person providing interpretation services may be required to establish the accuracy and trustworthiness of the interpretation in a court proceeding.

Qualified interpreters should be:

- (a) Available within a reasonable amount of time but in no event longer than one hour if requested.
- (b) Experienced in providing interpretation services related to law enforcement matters.
- (c) Familiar with the use of VRS and/or video remote interpreting services.
- (d) Certified in either American Sign Language (ASL) or Signed English (SE).
- (e) Able to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
- (f) Knowledgeable of the ethical issues involved when providing interpreter services.

Members should use department-approved procedures to request a qualified interpreter at the earliest reasonable opportunity, and generally not more than 15 minutes after a request for an interpreter has been made or it is reasonably apparent that an interpreter is needed. No individual who is disabled shall be required to provide his/her own interpreter (28 CFR 35.160).

332.9 TTY AND RELAY SERVICES

In situations where an individual without a disability would have access to a telephone (e.g., booking or attorney contacts), members must also provide those who are deaf, hard of hearing or have impaired speech the opportunity to place calls using an available TTY (also known as a telecommunications device for deaf people, or TDD). Members shall provide additional time, as needed, for effective communication due to the slower nature of TTY and TDD communications.

The Department will accept all TTY or TDD calls placed by those who are deaf or hard of hearing and received via a telecommunications relay service (28 CFR 35.162).

Note that relay services translate verbatim, so the conversation must be conducted as if speaking directly to the caller.

332.10 COMMUNITY VOLUNTEERS

Interpreter services may be available from community volunteers who have demonstrated competence in communication services, such as ASL or SE, and have been approved by the Department to provide interpreter services.

Where qualified interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members

must carefully consider the nature of the contact and the relationship between the individual with the disability and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

332.11 FAMILY AND FRIENDS

While family or friends may offer to assist with interpretation, members should carefully consider the circumstances before relying on such individuals. The nature of the contact and relationship between the individual with the disability and the person offering services must be carefully considered (e.g., victim/suspect).

Children shall not be relied upon except in emergency or critical situations when there is no qualified interpreter reasonably available.

Adults may be relied upon when (28 CFR 35.160):

- (a) There is an emergency or critical situation and there is no qualified interpreter reasonably available.
- (b) The person with the disability requests that the adult interpret or facilitate communication and the adult agrees to provide such assistance, and reliance on that adult for such assistance is reasonable under the circumstances.

332.12 REPORTING

Whenever any member of this department is required to complete a report or other documentation, and communication assistance has been provided, such services should be noted in the related report. Members should document the type of communication services utilized and whether the individual elected to use services provided by the Department or some other identified source. If the individual's express preference is not honored, the member must document why another method of communication was used.

All written communications exchanged in a criminal case shall be attached to the report or placed into evidence.

332.13 FIELD ENFORCEMENT

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve individuals with disabilities. The scope and nature of these activities and contacts will inevitably vary.

The Department recognizes that it would be virtually impossible to provide immediate access to complete communication services to every member of this department. Members and/or supervisors must assess each situation and consider the length, complexity and importance of the communication, as well as the individual's preferred method of communication, when determining the type of resources to use and whether a qualified interpreter is needed.

Although not every situation can be addressed in this policy, it is important that members are able

to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to verbally request consent to search if the officer is unable to effectively communicate with an individual who is deaf or hard of hearing and requires communications assistance.

If available, officers should obtain the assistance of a qualified interpreter before placing an individual with a disability under arrest. Individuals who are arrested and are assisted by service animals should be permitted to make arrangements for the care of such animals prior to transport.

332.13.1 FIELD RESOURCES

Examples of methods that may be sufficient for transactions, such as checking a license or giving directions to a location or for urgent situations such as responding to a violent crime in progress, may, depending on the circumstances, include such simple things as:

- (a) Hand gestures or visual aids with an individual who is deaf, hard of hearing or has impaired speech.
- (b) Exchange of written notes or communications.
- (c) Verbal communication with an individual who can speech read by facing the individual and speaking slowly and clearly.
- (d) Use of computer, word processing, personal communication device or similar device to exchange texts or notes.
- (e) Slowly and clearly speaking or reading simple terms to individuals who have a visual or mental impairment.

Members should be aware that these techniques may not provide effective communication as required by law and this policy depending on the circumstances.

332.14 CUSTODIAL INTERROGATIONS

In an effort to ensure that the rights of individuals who are deaf, hard of hearing or have speech impairment are protected during a custodial interrogation, this department will provide interpreter services before beginning an interrogation, unless exigent circumstances exist or the individual has made a clear indication that he/she understands the process and desires to proceed without an interpreter. The use of a video remote interpreting service should be considered, where appropriate, if a live interpreter is not available. *Miranda* warnings shall be provided to suspects who are deaf or hard of hearing by a qualified interpreter or by providing a written *Miranda* warning card.

In order to ensure that communications during custodial investigations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

332.15 ARREST AND BOOKINGS

If an individual with speech or hearing disabilities is arrested, the arresting officer shall use

department-approved procedures to provide a qualified interpreter at the place of arrest or booking as soon as reasonably practicable, unless the individual indicates that he/she prefers a different auxiliary aid or service or the officer reasonably determines another effective method of communication exists under the circumstances.

When gathering information during the booking process, members should remain alert to the impediments that often exist when communicating with those who are deaf, hard of hearing, who have impaired speech or vision, are blind, or have other disabilities. In the interest of the arrestee's health and welfare, the safety and security of the facility and to protect individual rights, it is important that accurate medical screening and booking information be obtained. If necessary, members should seek the assistance of a qualified interpreter whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by the individual.

Individuals who require and possess personally owned communication aids (e.g., hearing aids, cochlear processors) should be permitted to retain them while in custody.

332.16 COMPLAINTS

~~The Department shall ensure that individuals with disabilities who wish to file a complaint regarding members of this department are able to do so. The Department may provide a qualified interpreter or forms in enlarged print, as appropriate. Complaints will be referred to the department ADA Coordinator.~~

~~Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Qualified interpreters used during the investigation of a complaint should not be members of this Department. Pursuant to the City of Berkeley's ADA Grievance procedure (AR 1.91, as it may be amended from time to time) the Department shall investigate any complaint against the Department or its employees which alleges denial of accommodation or non-compliance with disability related civil rights laws with respect to the Department's services and programs. AR 1.91 should be referred to for more details. Generally, however, any individual who disputes a disability-related action or omission of the Department or of an employee of the Department may discuss his/her complaint with the service coordinator. The ADA Service Coordinator may consult with the City's Disability Compliance Coordinator. The ADA service coordinator shall maintain on file for a period of three years a record of the dispute, any findings, the recommendation(s), and the outcome.~~

~~If the dispute is not resolved to the complainant's satisfaction, he or she may file a complaint with the City's Disability Compliance Coordinator. Pursuant to BMC Ch. 3.32.090, as it may be amended from time to time, such complaints may also be filed with the Police Review Commission.~~

332.17 COMMUNITY OUTREACH

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to

such programs and services.

332.18 TRAINING

To ensure that all members who may have contact with individuals who are disabled are properly trained, the Department will provide periodic training that should include:

- (a) Awareness and understanding of this policy and related procedures, related forms and available resources.
- (b) Procedures for accessing qualified interpreters and other available resources.
- (c) Working with in-person and telephone interpreters and related equipment.

The Personnel and Training Sergeant shall be responsible for ensuring new members receive training related to interacting with individuals who have disabilities, including individuals who are deaf, hard of hearing, who have impaired speech or vision, or are blind. Those who may have contact with such individuals should receive refresher training at least once every two years thereafter. The Personnel and Training Sergeant shall maintain records of all training provided, and will retain a copy in each member's training file in accordance with established records retention schedules.

332.18.1 CALL-TAKER TRAINING

Emergency call-takers shall be trained in the use of TTY equipment protocols for communicating with individuals who are deaf, hard of hearing or who have speech impairments. Such training and information should include:

- (a) The requirements of the ADA and Section 504 of the Rehabilitation Act for telephone emergency service providers.
- (b) ASL syntax and accepted abbreviations.
- (c) Practical instruction on identifying and processing TTY or TDD calls, including the importance of recognizing silent TTY or TDD calls, using proper syntax, abbreviations and protocol when responding to TTY or TDD calls.
- (d) Hands-on experience in TTY and TDD communications, including identification of TTY or TDD tones.

Training should be mandatory for all the Communications Center members who may have contact with individuals from the public who are deaf, hard of hearing or have impaired speech. Refresher training should occur every six months.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: January 1, 2000

GENERAL ORDER T-19

SUBJECT: AMERICANS WITH DISABILITY ACT

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BERKELEY POLICE DEPARTMENT

DATE ISSUED: January 1, 2000

GENERAL ORDER T-19

PURPOSE

1. Quality Services and Compliance

The purpose of this policy is to establish guidelines for Berkeley Police Department employees to provide quality services to people with disabilities, by which to comply with provisions of the Americans with Disabilities Act, Section 504 of the 1973 Rehabilitation Act, and state law as amended from time to time, (collectively, "ADA").

The intent of this policy is to address the requirements of the Americans with Disabilities Act (and similarly, Section 504) which state in part: "No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity." This policy and its guidelines are to be implemented consistent with those requirements.

POLICY

2. Access to Programs and Services

It shall be the policy of the Berkeley Police Department to ensure that a consistently high level of police service is provided to all members of the community, including people with disabilities who may require accommodations, auxiliary aids or services, modifications to procedures or practices, or other consideration in order to access these services.

The department will modify its policies, practices, and procedures and provide other accommodation necessary under the ADA, to avoid discriminating based on disability, to the extent such modifications are reasonable, do not fundamentally alter the nature of the services provided, and do not create an undue financial or administrative burden. Nothing in this order is intended to require, or shall be interpreted to require, greater or lesser accommodations than required by the ADA

It is the policy of this Department to afford people with disabilities an opportunity to access its programs and services provided to non-disabled citizens. In its breadth, this policy includes, but is not limited to, services such as first-responder recognition of the nature and characteristics of various disabilities; appropriate physical, communication, and emotional support to people with disabilities who seek to access police services or who come into contact with the police.

Examples include, but are not limited to:

- a. Access to police information, programs, services, and publications for people who have vision impairments, hearing impairments, or impaired cognitive abilities, or other disabilities;

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- b. Recognition of the difference between disability-related characteristics and the characteristics of criminal behavior or of intoxication;
- c. Recognition of symptoms and appropriate medical and emotional support for people experiencing seizures;
- d. Understanding of and appropriate physical support in aiding people who have mobility impairments;
- e. Prompt access to interpreters for people with hearing, cognitive, or speech disabilities who have a need to communicate with police personnel;
- f. Prompt around-the-clock access to professional support systems for people with mental disabilities;
- g. Other accommodations to ensure service and access to all people with visual, mental, emotional and medical disabilities including any invisible disabilities such as diabetes, epilepsy, multiple sclerosis, loss of hearing and others.

3. Overview of the Guidance

No single policy or procedure can address every detail of police response to all situations involving people with disabilities. It is the intent of this policy and procedure to guide employees in responding to and assisting those people with disabilities with whom they will have the most contact in the performance of their duties and responsibilities. This policy and procedure addresses common police interactions with people with disabilities including those who are complainants, victims, witnesses, arrestees, members of the community who desire to participate in department-sponsored programs, people seeking information, and uninvolved bystanders.

In all cases, employees must take steps necessary to assist people with disabilities in accessing the full range of immediate and follow-up services provided by this Department. Consideration must be given to those steps that will lead to a positive outcome while, at all times, maintaining employee or public health or safety.

OVERVIEW OF SPECIFIC DISABILITIES

4. Introduction

"Disability" means a physical or mental impairment which substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment. "Qualified individual with a disability" means an individual with a disability that meets the essential eligibility requirements for receiving the Department's services, or participating in the Department's programs or activities, with or without accommodation.

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It is not the intent of this policy to provide detailed information on all disabilities. The Department will continue to make information available to employees, through training and other sources, on various disabilities. It is incumbent on all employees to become aware of the characteristics of various disabilities and the needs of people who have them. Employees also should be aware that many people have multiple disabilities or one or more hidden disabilities.

The following section provides a brief overview of several general categories of disabilities and how the Department and its employees should respond to the needs of people with these disabilities.

5. Visual Disabilities

One of the most difficult issues facing people who are blind or vision impaired is identifying police officials. Employees should offer, at the initiation of a contact, detailed information in identifying themselves as members of the Department. Whenever possible, if the presence of a visual disability is known, officers may have dispatch contact the victim or complainant to verify to him or her that a member of the Department has arrived. If needed, badges may be offered to the individual to verify the officer's identity.

Knowing what not to do is as important as knowing what to do to assist a person who is vision impaired. Employees do not need to raise their voice when speaking. To lead a blind person in a particular direction the officer should offer an elbow, if needed, the individual will take the officer's arm for guidance and the officer can proceed a half step ahead of the person being guided.

People with vision impairments may not be able to read printed or other visual materials presented to them, such as a citation or a form that must be signed. Officers should provide alternative format materials or clearly read the material aloud, when necessary for the individual to effectively participate in what is being communicated. See "Effective Communication" and Appendix A

6. Mental, Emotional and Psychological Disabilities

The terms "mental illness," "emotional illness," and numerous other terms describe various disabilities causing psychological disturbances in thinking, feeling, and relating. An estimated ten percent of the population of the United States has some type of mental illness.

Providing accessibility to police services for people with mental, emotional, and psychological disabilities usually involves providing the same general types of assistance anyone might need. At times, exceptional police service and safe custodial care may be required.

When aware of a person's disability, employees must ensure that people with mental, emotional, or psychological disabilities are assisted in accessing agency services, which may require time and patience beyond that usually provided. For

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example, time spent on a call for service may have to be extended in order to reassure the individual, sort facts, interact with family members and others, and bring the call to successful resolution.

When an employee knows that a person taken into custody has a mental, emotional, or psychological disability, the employee must make reasonable efforts, where consistent with appropriate precautions, to use the least restraint necessary, and to protect the arrestee from self-injury.

Frequently, a family member or friend is of great value in calming an individual exhibiting unusual behavior as a result of mental or emotional impairment.

Officers must become familiar with appropriate government agencies, nonprofit agencies, volunteer organizations, and emergency medical services available to provide assistance to people with mental, emotional, and psychological disabilities. If needed, steps should be taken to gain placement for the individual in an appropriate emergency medical, health care, or shelter facility. Appendix A lists some appropriate resources.

Officers must remain familiar with appropriate emergency commitment/detention procedures to be used when providing shelter care and related support to people with mental, emotional or psychological disabilities. These procedures include California Welfare and Institutions Code Sec. 5150.

7. Cognitive Disabilities

Cognitive disabilities are a group of conditions affecting the abilities for knowing (cognition), which encompasses a broad range of developmental disabilities, learning disabilities, impairments associated with aging, traumatic brain injuries, and other impairments of mental ability. Cognitive disabilities and mental illness are distinct conditions, with different causes, although an individual might experience both.

The disabilities in this group vary from mild to profound. Some cognitive impairments are transient and the person recovers function, as from a seizure or mild stroke; some conditions can be progressive, such as Parkinson's or Alzheimer's disease; and some are ongoing and stable, as with mental retardation.

Employees should recognize that people who have cognitive disabilities have varied degrees of intelligence and of limitations to intellectual functioning. The largest percentage of people with mental retardation, for example, is in the ranges termed "mild" or "moderate." When interacting with individuals known to have a cognitive disability, employees should avoid being patronizing. Ask short questions, be patient when waiting for answers, repeat questions and answers if necessary, have individuals repeat the question in their own words, and provide reassurance, if appropriate.

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In many situations, and particularly when dealing with someone who is lost or has run away, the employee may gain improved response by accompanying the person through a building or neighborhood to seek visual clues. In responding to the needs of people with severe or profound cognitive disabilities, the aid of family, friends, and neighbors also may be invaluable.

8. Mobility Impairments

Among the disabilities that are the most visibly identifiable are mobility impairments. People with mobility-related impairments include those who have difficulty walking, those who use a wheelchair or other mobility aid, and those who are immobile. Causes of impairments include spinal cord injuries, back injuries, amputation, arthritis, and numerous other conditions.

In a critical or emergency situation, employees should be aware of the safest and most effective methods for assisting people with mobility impairments to avoid causing them unnecessary strain, pain, or injury. Where circumstances permit, officers should ask the individual directly about his or her equipment and how to provide effective assistance. Officers should be alert for the presence of disability-related aids such as respirators, which can easily become disconnected and need to be re-attached or may signal the need for additional care.

In an arrest encounter, mobility devices (such as a cane) may or may not pose a danger to an officer. Since a mobility-impaired individual relies on the device to be able to go places, or simply for seating or for breathing, the device may remain with the individual, if consistent with appropriate precautions against danger. Once an arrestee with a mobility impairment is secure in a cell and the immediate presence of danger is diminished, consideration should be given to returning use of any mobility aids (wheelchair, cane, etc.) so the arrestee has normal mobility in the situation. However, see A Section 17(b) for more detail.

To the extent required by the ADA, Department facilities should be kept accessible to people with mobility impairments. Entrances, interior routes, stairs, drinking fountains, rest rooms, and telephones should accommodate people with mobility impairments, including those who use wheelchairs. Therefore, furniture arrangement and stored materials/equipment must be maintained so they do not create barriers to accessibility. However, nothing in this policy shall require structural changes to existing facilities which are not required by the ADA, i.e., where the Department's service, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities.

9. Hidden Disabilities

Many disabilities are difficult to notice. An officer's failure to recognize characteristics associated with certain invisible disabilities could have serious consequences for the person with the disability. For example, epilepsy generally has no outward signs unless the person with this disability experiences a seizure.

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An officer's patience and understanding of the characteristics commonly associated with invisible disabilities will lead to a successful outcome. An inaccurate assessment may lead to unnecessary confrontation, injury, and denial of needed medication and/or medical treatment.

As with all types of disabilities, an employee is obligated to protect a disabled individual from unnecessary harm to the extent consistent with employee and public health and safety and the Department's performance of its duties. Standard police procedures, especially the use of weapons, force, or handcuffs, may be more likely to injure a person who has a disability than someone who does not. The individual with a disability has a right to ask that procedures be modified and the officer must consider such a request and respond appropriately.

People with diabetes may have reactions from either too little insulin or too much insulin. Low blood sugar reactions are common and are usually treated by ingesting sugar or taking other nutrition. Care should be taken when detaining someone known to have diabetes so that they are not prevented from getting needed sugar.

Officers should realize that involuntary behavior associated with some invisible disabilities may resemble behavior characteristically exhibited by intoxicated or, less frequently, combative individuals. For example, a person experiencing a mild seizure may appear incoherent and physically unbalanced or may resist an officer if grabbed. These responses are transitory. There are also permanent conditions, such as cerebral palsy, brain injury, or multiple sclerosis that can result in a gait that resembles intoxication.

When aiding a person experiencing a seizure, protection from obstacles, a calm reassuring manner, and patience are important responses. The first procedure should always be to ask the individual involved, if responsive, what the problem is and how to manage it. Persons with seizure disorders often carry information, such as a wallet card or Medi-alert bracelet; officers should look for such a card or bracelet. Refer to Training and Information Bulletin #251, "Seizure-Recognition and Response."

Additionally, family members and friends should be sought to provide information and assistance. Their presence may prove invaluable in understanding the needs of the person with the disability and guiding the officer's actions.

10. Speech and Hearing Disabilities

As with some other invisible disabilities, officers may confuse the behavior of individuals with hearing and speech disabilities with those of people who intentionally refuse to cooperate or those who abuse legal or illegal substances. Officers should be aware that an individual's failure to comply with or respond to verbal orders does not always constitute defiance, but may be the result of that individual's inability to hear the officer or respond verbally.

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Before committing to a course of action, officers should, when there is a reasonable opportunity to do so, attempt to identify whether or not they are dealing with a person who has a communication-related disability. If an individual indicates that he/she has a communication impairment, the officer must ensure that effective communication is provided so both people understand what is communicated. It is essential that officers take extra measures to protect the rights of suspects who are known to be deaf or hard of hearing, or may not have communications comprehension levels sufficient to fully understand, for example, the basic Miranda rights. See "Effective Communication," Section 12.

RESPONSIBILITY OF EMPLOYEES

11. Gaining Knowledge and Showing Respect

People with disabilities may be suspects or arrestees and require detention, transport, and processing. Employees must familiarize themselves with the guidelines in this and related orders and training and information bulletins; see Appendix B. Employees must know and use the proper methods of transport, arrest, and detention to ensure officer safety while providing all reasonable support to an arrestee with a disability.

Employees should develop the ability to recognize the characteristics of various disabilities, including symptoms and physical reactions.

Employees should also recognize that actions or responses of people with certain disabilities might resemble those of people who have abused substances such as alcohol or drugs. At times, people with diabetes, epilepsy, multiple sclerosis, cerebral palsy, speech or hearing impairments, or other disabilities may exhibit such apparent behavior.

Employees should be able to identify and apply appropriate responses, such as emergency medical aid, protecting and/or calming the individual, securing professional medical attention, locating and enlisting support of family and friends, and rendering proper physical support.

No employee should jeopardize his or her safety or that of others in an attempt to accommodate a person with a disability. Nonetheless, individuals with disabilities may present unique issues that require an officer to be open and creative in order to provide the Department's services safely and effectively.

Officers should be able to identify and apply appropriate restraint to a person with a disability, if needed to facilitate an arrest or an emergency response. When affecting an arrest and when assisting in an emergency of a person with a disability, officers should be able to access the support systems necessary to secure the rights of the individual. This may include use of interpreters, personal attendants, and legal guardians.

Keeping in perspective the safety of officers and the public, officers should strive

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to be professional. The professional officer always treats persons with disabilities with as much respect as that offered any other individual.

12. Effective Communication

Successful police contact with citizens -- whether it is a suspect, victim, witness, or complainant with whom the officer is talking -- requires good communication. Effective communication equals accessibility for people who are hearing impaired or who have other communication disabilities. Good communication is a key to gathering information about cases, ensuring public and individual health and safety, and engendering good community relations. Refer to Training and Information Bulletin #237, "Stop and Release Situations in the Field."

Employees should use their total available skills and resources to effectively communicate (total communication) and should employ auxiliary aids and services as needed. Observational skills, awareness of other people's modes of communicating, and knowing when to seek assistance are important methods for understanding and being understood. Officers should address the disabled individual directly, i.e., when an interpreter is used to communicate with a hearing-impaired individual.

Auxiliary aids and services include Interpreters¹, Qualified Interpreters², written materials, note pads, computer-assisted real-time transcription, computers or typewriters, and other effective methods of making orally delivered materials available to individuals with - hearing impairments. Auxiliary aids and services for individuals with vision impairments include tape cassettes, computer diskettes, Braille or large print materials, verbal descriptions, or other effective alternatives to visually delivered materials.

When determining whether auxiliary aids and services are needed, the employee must judge whether communication is truly working without the aid or service. The employee should ask the individual if he or she wants or needs an interpreter or other auxiliary aid or service of his or her choice. Where an auxiliary aid or service is required to ensure effective communication, primary consideration shall be given to the method requested by the individual. However, if another effective method of communication exists, the Department may provide it instead. Other considerations include the immediacy of need to communicate, the health and safety of the individual or others, whether the aid or service the individual has requested is readily available or would fundamentally alter the service or create an undue financial or administrative burden, and the possibility of completing the communication at another time. Whether an interpreter,

¹ Anyone relied upon to interpret for a hearing-impaired individual must be able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary ("effective communication").

² "Qualified Interpreter" means an Interpreter certified as competent by an organization approved by the Judicial Council, per the California Evidence Code. See Appendix A for sources of Qualified interpreters.

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Qualified Interpreter, or alternative auxiliary aids should be provided, if requested, depends on the length, complexity, and importance of the conversation.

When a deaf individual wants a friend or family member to interpret, whether or not certified as a Qualified Interpreter, the officer must first determine that he/she can provide effective communication, it is not a conflict for the person, and emotional/personal involvement will not impede the communication. When an interpreter or other requested auxiliary aid is not reasonably available, the employee still must obtain the most effective communication under the circumstances by using other auxiliary aids, or services, such as another employee with signing skills, computer or typewriter, a TDD, or paper and pen, or must set a time to meet later when aids or services are available.

An Interpreter, preferably a Qualified Interpreter, should be provided in situations such as the following, keeping in mind that an inaccurate interpretation or ineffective communication may nullify ability to rely upon statements obtained:

- a. If, after a situation is stabilized and a hearing-impaired individual is arrested, an officer is unable to convey to the arrestee the nature of the criminal charges by communicating on a note pad or by using another means of communication;
- b. if an officer needs to interview a suspect with a hearing impairment to determine if there is probable cause to make an arrest;
- c. if an investigating officer interviews a victim or critical witness with a hearing impairment unless the individual indicates that he/she does not need or want to use an Interpreter;
- d. if an officer cannot effectively inform a hearing impaired arrestee of the Miranda warnings³, or is seeking to interrogate a hearing impaired arrestee; Officers should secure the services of an Interpreter to communicate accurately prior to any interrogation of a hearing-impaired individual.

In these circumstances where a Qualified Interpreter cannot, despite a good faith effort, be obtained (i.e., the circumstances do not permit delay), another Interpreter or means of effective communication such as exchanging writings may be used.

In circumstances where no Qualified Interpreter is secured, efforts made to obtain such must be recorded in the police report.

When completing a report about a situation in which an interpreter or other auxiliary services were provided for effective communication, all identifying

³. See section 17(1) regarding Miranda warnings and the hearing impaired.

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information on the Interpreter must be included in the report, including the Interpreter's name, an address and phone number of the Interpreter or the agency supplying the Interpreter, the time the Interpreter/agency was called, and his/her time of arrival and departure. All written questions and responses between and among police officers and persons with hearing impairments must be treated as evidence and handled accordingly. A copy of the written questions and responses must be forwarded with the police report, and the originals must be placed into evidence.

DEPARTMENT RESPONSIBILITIES

13. Administration and Complaint Procedures

The Department shall responsibly administer this policy consistent with overall City of Berkeley ADA compliance efforts. The Department will endeavor to assign adequate resources for this purpose, including but not limited to: designating an employee as ADA service coordinator, resolving complaints in a timely manner, providing appropriate training and information, and including budget line items to fund accommodations. The Commission on Disability shall review revisions or amendments to this order.

Responses to requests for accommodation under this policy shall be made as routinely as practicable. Whenever possible and consistent with the factors discussed above, the employee receiving such a request should respond by promptly providing the

accommodation if reasonable. If appropriate, the employee should consult with a supervisor as a next step. The supervisor should call on the assistance of the ADA, service coordinator or the City's Disability Compliance Coordinator whenever a request cannot be satisfied at the line or division level.

Denial of any specific request for accommodation must be authorized by a Patrol Division Watch Commander or in his/her absence, a supervising sergeant, who shall report it to the Department's ADA service coordinator within twenty-four hours of the denial.

Pursuant to the City's ADA Grievance procedure (AR 1.91, as it may be amended from time to time) the Department shall investigate any complaint against the Department or its employees which alleges denial of accommodation or non-compliance with disability-related civil rights laws with respect to the Department's services and programs. AR 1.91 should be referred to for more details. Generally, however, any individual who disputes a disability-related action or omission of the Department or of an employee of the Department may discuss his/her complaint with the service coordinator. The ADA Service Coordinator may consult with the City's Disability Compliance Coordinator. The ADA service coordinator shall maintain on file for a period of three years a record of the dispute, any findings, the recommendation(s), and the outcome.

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If the dispute is not resolved to the complainant's satisfaction, he or she may file a complaint with the City's Disability Compliance Coordinator. Pursuant to BMC Ch. 3.32.090, as it may be amended from time to time, such complaints may also be filed with the Police Review Commission.

14. A.D.A Service Coordinator

The Department has designated an officer whose duties include those of ADA service coordinator, whose office location, name, and number are listed in Appendix A. The designated person coordinates the Department's efforts to comply with the Act and carry out its responsibilities under this order, including informal investigation of any complaint communicated to the Department alleging noncompliance with disability-related civil rights laws with respect to access to the Department's services and programs. The designated person ensures that the Department's information, equipment, and resources are in place to help implement this order. The designated person collaborates with and serves as liaison to the City's Disability Compliance Coordinator, and, when necessary, to other departments and the public on Departmental disability-related issues.

15. Training and Information

The Department will provide training and information, including this General Order, to all its employees about recognizing of various disabilities and providing appropriate police services to people with disabilities. The Department will provide training, including this General Order, to all officers on appropriate response to both non-arrest and arrest situations involving people with disabilities.

In establishing the need for additional training, if any, the Department will consider requests from employees, the community, the Commission on Disability, and other commissions and departments. Training will use Departmental and outside resources appropriate for the subject and will involve affected persons with disabilities to the maximum extent feasible. Training will be conducted periodically as necessary to maintain the Department's professional skills and knowledge, keep pace with changing disability issues, and help make Berkeley a model in delivery of services to persons with disabilities.

In order for employees to provide the highest level of service or safe custodial care to people with disabilities, the Department, in conjunction with the City's Disability Compliance Program, will develop and regularly update a list of agencies available to provide guidance, support, and direct assistance. The list is Appendix A -

The Department will maintain a roster of support agencies and individuals that may be contacted on a 24-hour-per-day basis to provide support in situations involving people with disabilities. The Department will provide reasonable accommodation to all qualified individuals who have disabilities by contacting

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these agencies when resources within the Department cannot provide a necessary accommodation. The Department will inform staff of appropriate budget codes to pay for accommodations.

16. Routine and Emergency Interaction

In providing routine and emergency services, the Department and its employees will promote and practice equality in response, support, and protection to all people including those with disabilities. Officers will make every effort to access appropriate disability-related support organizations when needed.

a. Communications accessibility

All dispatchers will act as coordinators for communication accessibility and will be trained to recognize characteristics of people whose disabilities may require

special communications techniques and to find methods for providing service. The Department will maintain TDD services for deaf and hearing impaired people and provide direct access to telephone emergency systems for individuals who use TDD's, voice carryover, hearing carryover, or relay services. If the dispatcher or other employee returns a call to someone who initially called via TDD, the employee will call back using a TDD or the California Relay Service. The Department's current TDD number is (510) 644-6565.

b. Access to Department programs

Crime prevention programs such as neighborhood watch, youth programs, inschool programs, and other programs will be made accessible to people with disabilities through outreach, location of accessible facilities, modified program schedules or locations, use of interpreters or other auxiliary aids and services, and other efforts to reasonably accommodate special needs. Planned meetings will offer effective communication appropriate to the expected needs of participants, such as making available, upon request, an assistive listening system or computerassisted real-time transcription for hearing impaired participants. Announcements of public meetings should include information about the availability of auxiliary aids and advise who should be contacted, and by when, to arrange for accommodations.

c. Routine calls for service

People with disabilities may have special needs that may have to be met in order for Department employees to provide the best possible routine police response to calls for service. Officers should be able to identify specific needs of people with disabilities and, first and foremost, should ask the individual what those needs might be.

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Employees should be sensitive to the fact that some people with disabilities may be targeted as crime victims as a direct result of their disability.

Employees should be familiar with techniques they may employ at a scene (during the initial call for service and as part of follow-up) to provide support to people with disabilities. All reasonable steps should be taken to aid people with disabilities in bringing calls for police service to successful completion, which may entail providing auxiliary aids and services including qualified interpreters, written materials, note pads, etc. See "Effective Communication," Section 12.

d. Emergency calls for service

Employees should be able to identify characteristics common to specific disabilities in a crisis or emergency so that appropriate action may be taken to render aid and assistance. Rather than assuming knowledge of how to render aid, employees should seek information from the disabled person. If the person with the disability is unable to communicate clearly by speaking, by writing or pointing, or by using auxiliary aids or services, employees should seek a medical alert bracelet, an instructive wallet card, or similar form of ID, as well as input from family, witnesses, and others to aid in identifying the nature of the disability.

As first responders, all employees should be aware of emergency medical techniques applicable to various disabilities.

e. Criminal activity

Some people with disabilities commit crimes. Generally, people with disabilities who commit crimes or purposely engage in disorderly conduct should not receive preferential treatment. See Section 17, below, for details regarding interaction with disabled suspects and arrestees.

f. Disruptive-appearing behavior

Officers should be aware of the variety of disabilities, which may manifest in ways that appear disruptive, such as Tourette's syndrome involving rude outbursts. An officer should attempt to determine whether conduct that seems disorderly is the manifestation of a disability, which should not, in and of itself, be treated as criminal activity, and may need to be addressed as a medical call, instead of an arrest situation.

An officer should recognize seizure symptoms, which in rare cases include running, spitting, shouting, or flailing movements. Actions during a seizure are undirected and not under conscious control. Do not expect a response from a person during a seizure episode. Realize the person may be easily agitated and may struggle with no hostile intent when grabbed or

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restrained. A calm, nonthreatening tone - is best when talking to someone whose consciousness is impaired. If seizure activity creates a direct threat to that individual or others, or to move a person away from a hazardous or crowded area, a gentle, shepherding motion is most likely to avoid a struggle or subsequent injury. Refer to Training and Information Bulletin #237, "Seizure-Recognition and Response."

In all such situations, officers should take reasonable precaution to protect themselves and others from real harm. Conduct that is the result of a seizure may require medical assistance. Conduct that results from a mental disability, may require help from the mobile crisis team.

17. Arrest and Incarceration

Employees should utilize appropriate precautions and safety techniques in arresting and incarcerating all people, whether or not they have a disability. Officers should follow all policies and standard techniques for arrest and incarceration when taking a person with a disability into custody.

Consideration should be given to the special needs of some people with known disabilities in an arrest situation. Response in these situations requires discretion and will be based on information given by the individual with a disability and, in great part, on the officer's knowledge of characteristics and severity of the disability, the level of resistance exhibited by the suspect, and immediacy of the situation. In arrest and incarceration situations, employees must consider the following:

- a. A person whose disability affects the muscular and/or skeletal system may not be able to be restrained using handcuffs or other standard techniques which may be unnecessarily painful or even injurious; refer to General Order H-6. Officers should consider, where it is safe and effective to do so, restraining deaf persons who use sign language in a manner that does not prevent using their hands for communication; refer to General Order H-6. Alternative methods of safe and accessible transport or restraint (transport vans, seat belts) should be sought for these situations.
- b. Unless there are objective reasons to incarcerate a non-ambulatory arrestee, such as a threat to public safety or a risk of flight, the Department should cite-release non-ambulatory arrestees. Refer to General Order C-10 Citation Releases. For physically disabled persons who are not cite-released, the City shall make its best efforts to expedite the scheduling of an arraignment.
- c. Some people with disabilities require physical aids (for example, canes, wheel chairs, leg braces, breathing or life-support equipment, service animals, eyeglasses) to maintain their mobility. Once the immediate presence of danger has diminished and the suspect is safely incarcerated,

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consideration should be given to returning mobility aids that have been taken. If mobility aids must be withheld, the prisoner must be closely monitored to ensure that his or her needs are met, to prevent injury, and to determine whether changes in the situation warrant return of the mobility aids. The Department will withhold any physical aid if it reasonably concludes poses a health or securities risk.

- d. Every reasonable effort should be made to ensure that arrestees dependent on particular local services for healthcare or communication are not transferred to other facilities while under the jurisdiction of the Berkeley Police Department. Non-ambulatory and other disabled persons may require local incarceration to continue to receive personal assistance or sign language services or other crucial supports. Non-ambulatory prisoners shall generally be incarcerated in the Berkeley jail in an accessible detention room. See section f below, for exceptions. The same (or better) amenities or programs will be provided to non-ambulatory prisoners as provided to other prisoners detained in the Berkeley jail. Prisoners shall be allowed to meet with visitors and attorneys in private and to have interpreters present, in their detention rooms if other accessible facilities are not available, subject to observation sufficient to ensure security.
- e. Persons with disabilities who require medical care solely as a result of their disability and who require use of attendants to provide that care shall be incarcerated in the City's facility and not transferred to another facility if their necessary attendant(s) consent in writing (1) to be incarcerated with the prisoner who has a disability during the period needed for attendant care and (2) to give a minimum of two-hours notice of any withdrawal of said consent. Under such circumstances, necessary attendants giving such consent may, at the disabled prisoner's request, be incarcerated with the prisoner during the period needed for attendant care, so long as the City determines they do not pose a health or security risk. If a disabled person who is arrested needs to contact one or more attendants for assistance, he or she shall be accorded a reasonable opportunity to do so.

If necessary, arrestees will be allowed to contact "Easy Does It" or other appropriate services which are available to arrange for attendant services.

- f. Exceptional circumstances may arise in which it is appropriate to transfer a non-ambulatory prisoner to another facility. Such circumstances might include behavior (as opposed to speech) that objectively creates a risk of security; violent behavior; or a natural disaster, the prisoner requires services that can only be provided at another facility; or the accessible detention areas of the City's facility are occupied by other disabled prisoners. If a non-ambulatory prisoner who would otherwise be detained in the City's facility is transferred for any other reason, a written report shall be provided to the Chief of Police and the prisoner within twenty-four

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hours detailing the reasons and justification for such transfer. Two hours is generally the minimum time adequate to make arrangement for other attendants or for transportation of the prisoner to another facility. The prisoner transferred shall be provided with disabled-accessible transportation to the vicinity of the Berkeley jail upon release from the other facility, or returned to his/her residence, so long as it is in Berkeley if that is the prisoner's wish.

- g. Reasonable accommodation shall be made for arrestees who use portable medical equipment and durable medical goods needed and provided by the disabled arrestee, subject to legitimate security concerns.
- h. Prescribed medication, including Oxygen, may be required at regular intervals by people with certain disabilities, for example, diabetes or epilepsy. Upon learning that such medication is required, if adequate information cannot be obtained from the disabled prisoner, then medical personnel (the suspect's physician, on-call medical staff, emergency room medical staff) should promptly be contacted to determine the importance of administering the medication, potential for overdose, etc. Non-ambulatory prisoners who use prescription drugs shall have them administered in the same manner such drugs are administered to non-disabled prisoners in the Berkeley jail.
- i. Some people with disabilities may not understand their individual rights in an arrest situation, particularly if they have a communication or cognitive impairment. (For example, there is no sign language for the term "waive" in regard to the Miranda rights. Yet, in an effort to be cooperative, a suspect who is deaf may acknowledge that he or she is willing to give up his or her rights.) Officers must take extra care to ensure that the rights of the accused are protected. Refer to the MIRANDA WARNING.

Additionally, the Department will insure that deaf detainees have access to telephones on the same basis as other detainees. A TDD is available to deaf detainees to insure equal telephone access. Hearing impaired individuals who require quiet surroundings or amplification in order to use the telephone, will be given such accommodations.

- j. Lack of speech or other speech impairment may make it difficult for a suspect to notify the arresting officer or jailer of an urgent need. Frequent cell checks should be conducted, and instructions given to staff on incoming shifts, to ensure that the jailer knows when any urgent need arises.
 - 1. The Department will make reasonable efforts to notify other entities involved with a disabled arrestee or prisoner, such as the Public Defender's office, a hospital, jail, or other facility to which the individual is transferred, a court before which the individual is

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scheduled to appear, of that individual's known needs for accommodation.

References: California Welfare and Institutions Code Section 5150
Training and Information Bulletin Number 251, "Seizures- Recognition and Response"
Training and Information Bulletin Number 237, "Stop and Release Situations in the Field"
Training and Information Bulletin Number 133, "Miranda Warning"
City of Berkeley Administrative Regulation 1.91
General Orders C-10 and H-6

Limited English Proficiency Services

335.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with limited English proficiency (LEP) (42 USC § 2000d).

335.1.1 DEFINITIONS

Definitions related to this policy include:

Authorized interpreter - A person who has been screened and authorized by the Department to act as an interpreter and/or translator for others.

Interpret or interpretation - The act of listening to a communication in one language (source language) and orally converting it to another language (target language), while retaining the same meaning.

Limited English proficient (LEP) - Any individual whose primary language is not English and who has a limited ability to read, write, speak or understand English. These individuals may be competent in certain types of communication (e.g., speaking or understanding) but still be LEP for other purposes (e.g., reading or writing). Similarly, LEP designations are context-specific; an individual may possess sufficient English language skills to function in one setting but these skills may be insufficient in other situations.

Qualified bilingual member - A member of the Berkeley Police Department, designated by the Department, who has the ability to communicate fluently, directly and accurately in both English and another language. Bilingual members may be fluent enough to communicate in a non-English language but may not be sufficiently fluent to interpret or translate from one language into another.

Translate or translation - The replacement of written text from one language (source language) into an equivalent written text (target language).

335.2 POLICY

It is the policy of the Berkeley Police Department to reasonably ensure that LEP individuals have meaningful access to law enforcement services, programs and activities, while not imposing undue burdens on its members.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon national origin or any other protected interest or right.

335.3 LEP COORDINATOR

~~The **Communications Center Manager is the designated Chief of Police shall delegate certain responsibilities to an LEP Coordinator. The LEP Coordinator shall be appointed by, and directly responsible to, the Operations Division Commander or the authorized designee.**~~

The responsibilities of the LEP Coordinator include, but are not limited to:

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- (a) Coordinating and implementing all aspects of the Berkeley Police Department's LEP services to LEP individuals.
 - (b) Developing procedures that will enable members to access LEP services, including telephonic interpreters, and ensuring the procedures are available to all members.
 - (c) Ensuring that a list of all qualified bilingual members and authorized interpreters is maintained and available to each Watch Commander and Communications Manager. The list should include information regarding the following:
 - 1. Languages spoken
 - 2. Contact information
 - 3. Availability
 - (d) Ensuring signage stating that interpreters are available free of charge to LEP individuals is posted in appropriate areas and in the most commonly spoken languages.
 - (e) Reviewing existing and newly developed documents to determine which are vital documents and should be translated, and into which languages the documents should be translated.
 - (f) Annually assessing demographic data and other resources, including contracted language services utilization data and community-based organizations, to determine if there are additional documents or languages that are appropriate for translation.
 - (g) Identifying standards and assessments to be used by the Department to qualify individuals as qualified bilingual members or authorized interpreters.
 - (h) Periodically reviewing efforts of the Department in providing meaningful access to LEP individuals, and, as appropriate, developing reports, new procedures or recommending modifications to this policy.
 - (i) Receiving and responding to complaints regarding department LEP services.
 - (j) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs and activities.

335.4 FOUR-FACTOR ANALYSIS

Since there are many different languages that members could encounter, the Department will utilize the four-factor analysis outlined in the U.S. Department of Justice (DOJ) Guidance to Federal Financial Assistance Recipients, available at the DOJ website, to determine which measures will provide meaningful access to its services and programs. It is recognized that law enforcement contacts and circumstances will vary considerably. This analysis, therefore, must remain flexible and will require an ongoing balance of four factors, which are:

- 1. The number or proportion of LEP individuals eligible to be served or likely to be encountered by department members, or who may benefit from programs or services within the jurisdiction of the Department or a particular geographic area.

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2. The frequency with which LEP individuals are likely to come in contact with department members, programs or services.
 3. The nature and importance of the contact, program, information or service provided.
 4. The cost of providing LEP assistance and the resources available.

335.5 TYPES OF LEP ASSISTANCE AVAILABLE

Berkeley Police Department members should never refuse service to an LEP individual who is requesting assistance, nor should they require an LEP individual to furnish an interpreter as a condition for receiving assistance. The Department will make every reasonable effort to provide meaningful and timely assistance to LEP individuals through a variety of services.

The Department will utilize all reasonably available tools, such as language identification cards, when attempting to determine an LEP individual's primary language.

LEP individuals may choose to accept department-provided LEP services at no cost or they may choose to provide their own.

Department-provided LEP services may include, but are not limited to, the assistance methods described in this policy.

335.6 WRITTEN FORMS AND GUIDELINES

Vital documents or those that are frequently used should be translated into languages most likely to be encountered. The LEP Coordinator will arrange to make these translated documents available to members and other appropriate individuals, as necessary.

335.7 AUDIO RECORDINGS

The Department may develop audio recordings of important or frequently requested information in a language most likely to be understood by those LEP individuals who are representative of the community being served.

335.8 QUALIFIED BILINGUAL MEMBERS

Bilingual members may be qualified to provide LEP services when they have demonstrated through established department procedures a sufficient level of skill and competence to fluently communicate in both English and a non-English language. Members utilized for LEP services must demonstrate knowledge of the functions of an interpreter/translator and the ethical issues involved when acting as a language conduit. Additionally, bilingual members must be able to communicate technical and law enforcement terminology, and be sufficiently proficient in the non-English language to perform complicated tasks, such as conducting interrogations, taking statements, collecting evidence or conveying rights or responsibilities.

When a qualified bilingual member from this department is not available, personnel from other City departments, who have been identified by the Department as having the requisite skills and competence, may be requested.

335.9 AUTHORIZED INTERPRETERS

Any person designated by the Department to act as an authorized interpreter and/or translator

must have demonstrated competence in both English and the involved non-English language, must have an understanding of the functions of an interpreter that allows for correct and effective translation, and should not be a person with an interest in the department case or investigation involving the LEP individual. A person providing interpretation or translation services may be required to establish the accuracy and trustworthiness of the interpretation or translation in a court proceeding.

Authorized interpreters must pass a screening process established by the City of Berkeley's Human Resources Department LEP Coordinator which demonstrates that their skills and abilities include:

- (a) The competence and ability to communicate information accurately in both English and in the target language.
- (b) Knowledge, in both languages, of any specialized terms or concepts peculiar to this department and of any particularized vocabulary or phraseology used by the LEP individual.
- (c) The ability to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
- (d) Knowledge of the ethical issues involved when acting as a language conduit.

335.9.1 SOURCES OF AUTHORIZED INTERPRETERS

The Department may contract with authorized interpreters who are available over the telephone. Members may use these services with the approval of a supervisor and in compliance with established procedures.

Other sources may include:

- Qualified bilingual members of this department or personnel from other City departments.
- Individuals employed exclusively to perform interpretation services.
- Contracted in-person interpreters, such as state or federal court interpreters, among others.
- Interpreters from other agencies, ~~who have been qualified as interpreters by this department, and with whom the Department has a resource-sharing or other arrangement that they will interpret according to department guidelines.~~

335.9.2 COMMUNITY VOLUNTEERS AND OTHER SOURCES OF LANGUAGE ASSISTANCE

Language assistance may be available from community volunteers who have demonstrated competence in either monolingual (direct) communication and/or in interpretation or translation (as noted in above), and have been approved by the Department to communicate with LEP individuals.

Where qualified bilingual members or other authorized interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members must carefully consider the nature of the contact and the relationship between the LEP individual and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

While family or friends of an LEP individual may offer to assist with communication or interpretation, members should carefully consider the circumstances before relying on such individuals. For example, children should not be relied upon except in exigent or very informal and non-confrontational situations.

335.10 CONTACT AND REPORTING

While all law enforcement contacts, services and individual rights are important, this department will utilize the four-factor analysis to prioritize service to LEP individuals so that such services may be targeted where they are most needed, according to the nature and importance of the particular law enforcement activity involved.

Whenever any member of this department is required to complete a report or other documentation, and interpretation services are provided to any involved LEP individual, such services should be noted in the related report. Members should document the type of interpretation services utilized and whether the individual elected to use services provided by the Department or some other identified source.

335.11 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE

The Berkeley Police Department will take reasonable steps and will work with the Personnel and Training Bureau to develop in-house language capacity by hiring or appointing qualified members proficient in languages representative of the community being served.

335.11.1 EMERGENCY CALLS TO 9-1-1

Department members will make every reasonable effort to promptly accommodate LEP individuals utilizing 9-1-1 lines. When a 9-1-1 call-taker receives a call and determines that the caller is an LEP individual, the call-taker shall quickly determine whether sufficient information can be obtained to initiate an appropriate emergency response. If language assistance is still needed, the language is known and a qualified bilingual member is available in the Communications Center, the call shall immediately be handled by the qualified bilingual member.

If a qualified bilingual member is not available or the call-taker is unable to identify the caller's language, the call-taker will contact the contracted telephone interpretation service and establish a three-way call between the call-taker, the LEP individual and the interpreter.

Dispatchers will make every reasonable effort to dispatch a qualified bilingual member to the assignment, if available and appropriate.

While 9-1-1 calls shall receive top priority, reasonable efforts should also be made to accommodate LEP individuals seeking routine access to services and information by utilizing the resources listed in this policy.

335.12 FIELD ENFORCEMENT

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve LEP individuals. The scope and nature of these activities and contacts will inevitably vary. Members and/or supervisors must assess each situation to determine the need and availability of

language assistance to all involved LEP individuals and utilize the methods outlined in this policy to provide such assistance.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to request consent to search if the officer is unable to effectively communicate with an LEP individual.

If available, officers should obtain the assistance of a qualified bilingual member or an authorized interpreter before placing an LEP individual under arrest.

335.13 INVESTIGATIVE FIELD INTERVIEWS

In any situation where an interview may reveal information that could be used as the basis for arrest or prosecution of an LEP individual and a qualified bilingual member is unavailable or lacks the skills to directly communicate with the LEP individual, an authorized interpreter should be used. This includes interviews conducted during an investigation with victims, witnesses and suspects. In such situations, audio recordings of the interviews should be made when reasonably possible. Identification and contact information for the interpreter (e.g., name, address) should be documented so that the person can be subpoenaed for trial if necessary.

If an authorized interpreter is needed, officers should consider calling for an authorized interpreter in the following order:

- An authorized department member or allied agency interpreter
- An authorized telephone interpreter
- Any other authorized interpreter

Any *Miranda* warnings shall be provided to suspects in their primary language by an authorized interpreter or, if the suspect is literate, by providing a translated *Miranda* warning card.

The use of an LEP individual's bilingual friends, family members, children, neighbors or bystanders may be used only when a qualified bilingual member or authorized interpreter is unavailable and there is an immediate need to interview an LEP individual.

335.14 CUSTODIAL INTERROGATIONS

Miscommunication during custodial interrogations may have a substantial impact on the evidence presented in a criminal prosecution. Only qualified bilingual members or, if none is available or appropriate, authorized interpreters shall be used during custodial interrogations. *Miranda* warnings shall be provided to suspects in their primary language by the qualified bilingual member or an authorized interpreter.

In order to ensure that translations during custodial interrogations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

335.15 BOOKINGS

When gathering information during the booking process, members should remain alert to the impediments that language barriers can create. In the interest of the arrestee's health and welfare, the safety and security of the facility, and to protect individual rights, it is important that accurate medical screening and booking information be obtained. Members should seek the assistance of a qualified bilingual member whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by an LEP individual.

335.16 COMPLAINTS

The Department shall ensure that LEP individuals who wish to file a complaint regarding members of this department are able to do so. The Department may provide an authorized interpreter or translated forms, as appropriate. Complaints will be referred to the Internal Affairs Bureau, the LEP Coordinator.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Authorized interpreters used for any interview with an LEP individual during an investigation should not be members of this department.

Any notice required to be sent to an LEP individual as a complaining party pursuant to the Personnel Complaints Policy should be translated or otherwise communicated in a language-accessible manner.

335.17 COMMUNITY OUTREACH

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

335.18 TRAINING

To ensure that all members who may have contact with LEP individuals are properly trained, the Department will provide periodic training on this policy and related procedures, including how to access department-authorized telephonic and in-person interpreters and other available resources.

The Personnel and Training Sergeant shall be responsible for ensuring new members receive LEP training. Those who may have contact with LEP individuals should receive refresher training at least once every two years thereafter. The Personnel and Training Sergeant shall maintain records of all LEP training provided, and will retain a copy in each member's training file in accordance with established records retention schedules.

~~335.18.1—TRAINING FOR AUTHORIZED INTERPRETERS~~

~~All members on the authorized interpreter list must successfully complete prescribed interpreter training. To complete interpreter training successfully, an interpreter must demonstrate proficiency in and ability to communicate information accurately in both English and in the target language, demonstrate knowledge in both languages of any specialized terms or phraseology, and understand and adhere to the interpreter role without deviating into other roles, such as counselor.~~

or legal adviser.

Members on the authorized interpreter list must receive refresher training annually or they will be removed from the authorized interpreter list. This annual training should include language skills competency (including specialized terminology) and ethical considerations.

The Personnel and Training Sergeant shall be responsible for coordinating the annual refresher training and will maintain a record of all training the interpreters have received.

Community Relations

339.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for community relationship-building.

Additional guidance on community relations and outreach is provided in other policies, including the:

- Hate Crimes Policy.
- Limited English Proficiency Services Policy.
- Communications with Persons with Disabilities Policy.
- Chaplains Policy.
- Patrol Function Policy.
- Suspicious Activity Reporting Policy.

339.2 POLICY

It is the policy of the Berkeley Police Department to promote positive relationships between members of the department and the community by treating community members with dignity and respect and engaging them in public safety strategy development and relationship-building activities, and by making relevant policy and operations information available to the community in a transparent manner.

339.3 MEMBER RESPONSIBILITIES

Officers should, as time and circumstances reasonably permit:

- (a) Make casual and consensual contacts with community members to promote positive community relationships (see the Detentions and Photographing Detainees Policy).
- (b) Become reasonably familiar with the schools, businesses and community groups in their assigned jurisdictional areas.
- (c) Work with community members and the department community relations coordinator to identify issues and solve problems related to community relations and public safety.
- (d) Conduct periodic foot patrols of their assigned areas to facilitate interaction with community members. Officers carrying out foot patrols should notify an appropriate supervisor and the Communications Center of their status (i.e., on foot patrol) and location before beginning and upon completion of the foot patrol. They should also periodically inform the Communications Center of their location and status during the foot patrol.

339.4 ~~COMMUNITY RELATIONS AREA COORDINATORS~~

The ~~Community Services Bureau Lieutenant and Sergeant~~ Chief of Police or the authorized designee should designate a members of the ~~Community Services Bureau (CSB) Department~~ to serve as ~~Area Coordinators~~ the community relations coordinator. ~~The Area Coordinators~~ He/she should report directly to the ~~CSB Sergeant~~ Chief of Police or authorized designee and ~~are~~

responsible for:

- (a) Obtaining department-approved training related to his/her responsibilities.
- (b) Responding to requests from department members and the community for assistance in identifying issues and solving problems related to community relations and public safety.
- (c) Organizing surveys to measure the condition of the department's relationship with the community.
- (d) Working with community groups, department members and other community resources to:
 - 1. Identify and solve public safety problems within the community.
 - 2. Organize programs and activities that help build positive relationships between department members and the community and provide community members with an improved understanding of department operations.
- (e) Working with the Operations Division Commander to develop patrol deployment plans that allow officers the time to participate in community engagement and problem-solving activities.
- (f) Recognizing department and community members for exceptional work or performance in community relations efforts.
- (g) Attending City Council and other community meetings to obtain information on community relations needs.
- (h) Assisting with the department's response to events that may affect community relations, such as an incident where the conduct of a department member is called into public question.
- (i) Informing the Chief of Police and others of developments and needs related to the furtherance of the department's community relations goals, as appropriate.

SURVEYS

~~The Area Coordinators community relations coordinator should arrange for a survey of community members and department members to be conducted at least annually to assess the condition of the relationship between the Department and the community. Survey questions should be designed to evaluate perceptions of the following:~~

- ~~(a) — Overall performance of the Department~~
- ~~(b) — Overall competence of department members~~
- ~~(c) — Attitude and behavior of department members~~
- ~~(d) — Level of community trust in the Department~~
- ~~(e) — Safety, security or other concerns~~

~~A written summary of the compiled results of the survey should be provided to the Chief of Police.~~

339.5 COMMUNITY AND YOUTH ACTIVITIES AND PROGRAMS

The ~~Area Coordinators community relations coordinator~~ should organize or assist with programs and activities that create opportunities for department members and community members, especially youth, to interact in a positive setting. Examples of such programs and events include:

-
- (a) Department-sponsored athletic programs (e.g., baseball, basketball, soccer, bowling).
 - (b) Police-community get-togethers (e.g., cookouts, meals, charity events).
 - (c) Youth leadership and life skills mentoring.
 - (d) Berkeley High School's Law and Social Justice class. School resource officer/Drug Abuse Resistance Education (D.A.R.E.®) programs.
 - (e) Neighborhood Watch and crime prevention programs.

339.6 INFORMATION SHARING

The CSB Lieutenant or designee community relations coordinator should work with the Public Information Officer to develop methods and procedures for the convenient sharing of information (e.g., major incident notifications, significant changes in department operations, comments, feedback, positive events) between the Department and community members. Examples of information-sharing methods include:

- (a) Community meetings.
- (b) Social media (see the Department Use of Social Media Policy).
- (c) Department website postings.

Information should be regularly refreshed, to inform and engage community members continuously.

339.7 LAW ENFORCEMENT OPERATIONS EDUCATION

The CSB Lieutenant or designee community relations coordinator should develop methods to educate community members on general law enforcement operations so they may understand the work that officers do to keep the community safe. Examples of educational methods include:

- (a) Development and distribution of informational cards/flyers.
- (b) Department website postings.
- (c) Presentations to driver education classes.
- (d) Instruction in schools.
- (e) Department ride-alongs (see the Ride-Along Policy).
- (f) Scenario/Simulation exercises with community member participation.
- (g) Youth internships at the Department.
- (h) Citizen academies.

Instructional information should include direction on the following:

1. How community members should interact with the police during enforcement or investigative contacts
2. and How community members can make a complaint to the department regarding alleged misconduct or inappropriate job performance by department members
- 4-3. How community members can submit a commendation to the Chief for an officer

regarding his/her exemplary service.

339.8 SAFETY AND OTHER CONSIDERATIONS

Department members responsible for community relations activities should consider the safety of the community participants and, as much as reasonably practicable, not allow them to be present in any location or situation that would jeopardize their safety.

Department members in charge of community relations events should ensure that participating community members have completed waiver forms before participation, if appropriate. A parent or guardian must complete the waiver form if the participating community member has not reached 18 years of age.

Community members are subject to a criminal history check before approval for participation in certain activities, such as citizen academies.

COMMUNITY ADVISORY COMMITTEE

~~The CSB Lieutenant or designee~~ Chief of Police should establish a committee of volunteers consisting of community members, community leaders and other community stakeholders (e.g., representatives from schools, churches, businesses, social service organizations). The makeup of the committee should reflect the demographics of the community as much as practicable.

The committee should convene regularly to:

- (a) Provide a public forum for gathering information about public safety concerns in the community.
- (b) Work with the Department to develop strategies to solve public safety problems.
- (c) Generate plans for improving the relationship between the Department and the community.
- (d) Participate in community outreach to solicit input from community members, including youth from the community.

The ~~CSB~~ Personnel and Training Sergeant should arrange for initial and ongoing training for committee members on topics relevant to their responsibilities.

The ~~CSB Lieutenant or designee~~ Chief of Police may include the committee in the evaluation and development of department policies and procedures and may ask them to review certain personnel complaints for the purpose of providing recommendations regarding supervisory, training or other issues as appropriate.

346.10.1 LEGAL CONSIDERATIONS

The ~~CSB Lieutenant, CSB Sergeant and Area~~ Chief of Police and the community relations ~~Coordinators~~ should work with the City Attorney as appropriate to ensure the committee complies with any legal requirements such as public notices, records maintenance and any other associated obligations or procedures.

TRANSPARENCY

The Department should periodically publish statistical data and analysis regarding the department's operations. The reports should not contain the names of officers, suspects or case

numbers. The community relations coordinator should work with the community advisory committee to identify information that may increase transparency regarding department operations.

TRAINING

Subject to available resources, members should receive training related to this policy, including training on topics such as:

Effective social interaction and communication skills.

Cultural, racial and ethnic diversity and relations.

Building community partnerships.

Community policing and problem-solving principles.

Enforcement actions and their effects on community relations.

Where practicable and appropriate, community members, especially those with relevant expertise, should be involved in the training to provide input from a community perspective.

Crime Analysis

800.1 PURPOSE AND SCOPE

Crime analysis should provide currently useful information to aid operational personnel in meeting their tactical crime control and prevention objectives by identifying and analyzing methods of operation of individual criminals, providing crime pattern recognition, and providing analysis of data from field interrogations and arrests. Crime analysis can be useful to the Department's long range planning efforts by providing estimates of future crime trends and assisting in the identification of enforcement priorities.

800.2 DATA SOURCES

Crime analysis data is extracted from many sources including, but not limited to:

- Crime reports
- Field Interview cards
- Parole and Probation records
- Computer Aided Dispatch data
- Statewide Integrated Traffic Reporting System (SWITRS)

800.3 CRIME ANALYSIS FACTORS

The following minimum criteria should be used in collecting data for Crime Analysis:

- Frequency by type of crime
- Geographic factors
- Temporal factors
- Victim and target descriptors
- Suspect descriptors
- Suspect vehicle descriptors
- Modus operandi factors
- Physical evidence information

800.4 CRIME ANALYSIS DISSEMINATION

For a crime analysis system to function effectively, information should be disseminated to the appropriate units or persons on a timely basis. Information that is relevant to the operational and tactical plans of specific line units should be sent directly to them. Information relevant to the development of the Department's strategic plans should be provided to the appropriate staff units. When information pertains to tactical and strategic plans, it should be provided to all affected units.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: March 1, 2000

GENERAL ORDER G-4

SUBJECT: CRIME ANALYSIS UNIT

PURPOSE

- 1 - The purpose of this General Order is to provide for the establishment and continuing operation of a Departmental Crime Analysis Unit.

POLICY

- 2 - The Department shall maintain a Crime Analyst on a permanent basis. A crime analysis system is needed to effectively provide data to support both managerial and operational functions and to enable the development of operational, tactical and strategic planning. The Crime Analyst reports directly to the Patrol Division Captain and shall be assigned, but not limited to, the following functions:
 - (a) The collection of crime data.
 - (b) The collation of crime data.
 - (c) The analysis of crime data.
 - (d) Dissemination of analyzed crime information.
 - (e) Feedback analysis and program evaluation.
 - (f) Coordination of auto burglaries and theft from auto series.

PROCEDURES

- 3 - The Crime Analyst shall provide timely, useful information to aid Patrol, Detective, and Community Services Bureau personnel in meeting their tactical crime control and prevention objectives.
 - (a) Information available for each crime will be systematically and uniformly collected daily so that meaningful comparisons and analyses can be conducted. Crime data shall be collated and analyzed to:
 - (1) Identify individual criminals and their methods of operation;
 - (2) Facilitate the identification, apprehension, and prosecution of individuals meeting the Penal Code definition of "career criminal;"
 - (3) Determine evolving or existent crime patterns, and
 - (4) Furnish future trend data for long-range planning, targeting, budgeting, and resource allocation.

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BERKELEY POLICE DEPARTMENT

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- (b) The means by which analyzed crime information is disseminated shall include, but not be limited to:
- (1) **Network Information Bulletin (Bullwinkle).** A computer inter-departmental bulletin that among other things, synopsis crimes by location, beat, date, time, premise type, MO, suspect, and vehicle information; crime patterns/trends; wanted subjects; and known offenders.
 - (2) **Crime View maps, graphs and charts.**
 - (3) **Reverse 911 System.**
 - (4) **Community Beat Information Mailboxes.**
 - (5) **CAD disposition code reports.**
 - (6) **Coordinated City Services Task Force reports.***
 - (7) **Special Bulletins - selective crime information provided by investigative, administrative personnel or outside agencies for distribution.**
 - (8) **Individual Requests - personalized analysis based upon factors specified by the requester.**
 - (9) **Briefing presentations at various Divisional meetings by the "Area Coordinators"**
- (c) A feedback system for evaluation of individual information requests and new crime analysis products shall be established and maintained by the Crime Analyst. The value of all disseminated information to the achievement of identified Departmental goals shall be evaluated quarterly by the Patrol Division Captain.

SPECIFICATION OF SOURCE DOCUMENTS

- 4 - All sources available to this Department that contain data essential to crime analysis shall be identified and accessible for use in the crime analysis process, including but not limited to crime reports, field interview cards, arrest reports, career criminal files, Detective Bureau* and Patrol briefings. The Captain of the Patrol Division and the Crime Analyst shall be responsible for safeguarding the confidentiality of data obtained from these sources and for the security of such documents or copies thereof while in their possession and control.

CRIME ANALYSIS BRIEFING SYSTEMS

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- 5 - Management personnel shall be briefed on crime patterns or trends as determined by the crime analysis function. The purpose of this system shall be to provide early awareness of crime patterns and trends within the Police Department's jurisdiction. It will be the responsibility of the Patrol Division Captain to advise the Chief of Police on those areas which may seem appropriate.

DISSEMINATION OF CRIME ANALYSIS INFORMATION

- 6 - It is recognized that the effective functioning of a crime analysis system requires that information be disseminated to the appropriate units or persons on a timely basis. Information that is relevant to the operational and tactical plans of specific line units should be made available to them; similarly, information relevant to strategic plans of the Department should be made available to the appropriate staff units, and information pertaining to tactical and strategic plans should be made available to all affected units.

Crime analysis information and reports will be disseminated to the following:

- (a) Chief of Police.
- (b) Division Commanders.
- (c) Patrol Division sworn personnel.
- (d) Detective Division sworn personnel.
- (e) Outside criminal justice agencies.

FACTORS UTILIZED IN CRIME ANALYSIS FUNCTION

- 7 - In order that it be effectively utilized, it is recognized that scientific crime analysis should:
- (a) Identify similarities among different offenses and reveal commonalities and patterns in the characteristics of current crime problems;
 - (b) Assist in the establishment of suspect lists;
 - (c) Aid in the identification of specific crimes that may involve an offender already in custody.

To this end, the crime analysis function shall at a minimum include the following factors when identifying serial crimes:

- (1) Frequency - by type of crime.
- (2) Geographical factors.

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- (3) Chronological factors.
- (4) Victim and target descriptors.
- (5) Suspect descriptors.
- (6) Suspect vehicle descriptors.
- (7) Modus operandi factors.
- (8) Physical evidence information.

DOCUMENTATION OF CRIME DISTRIBUTION

- 8 - The Department shall document the temporal and geographic distribution of selected crimes using appropriate statistical, mapping, and graphic techniques. Such documentation may include the locations of crimes by type, times and day of week, and may also include modus operandi factors, suspect information, victim and target descriptions, and property loss information.

DISTRIBUTION OF CRIME ANALYSIS INFORMATION TO THE PUBLIC

- 9 - When authorized by the Chief of Police and coordinated with a Command Officer, appropriate crime information may be disseminated to enhance public information and generate public support. Distribution may also include other components of the Criminal Justice System. Information concerning operational needs and procedures shall be carefully controlled within Departmental guidelines relating to security and confidentiality.

INFORMATION FOR PLANNING

- 10 - Information obtained through crime analysis procedures shall be utilized in the development of tactics for Patrol and Detective Divisions; in the development of general crime suppression strategies, and in predicting personnel and resource needs for short-term and multi-year periods.
 - (a) Statistical analysis is utilized by the Crime Analyst to identify crime patterns or trends. This information can assist in determining the optimum strategy, tactics, and number of personnel needed in a given situation.
 - (b) Crime trend data may be considered for budget preparation and organizational structure changes.

COOPERATION WITH OUTSIDE AGENCIES

- 11 - The Crime Analyst shall extend full cooperation to crime analysts from other

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agencies who share related crime trend information.

EVALUATION AND FEEDBACK

- 12 - Evaluation shall be made on an ongoing basis of the effectiveness and utilization of crime analysis information by affected units of the Department.
- (a) The Crime Analyst will contact Patrol Division, Detective Division, Community Services Bureau, and the Warrant Bureau to solicit feedback on a weekly basis.
 - (b) Feedback may be verbal or in written memorandum to the Crime Analyst or the Patrol Division Captain.
 - (c) Feedback will be reviewed by the Patrol Division Captain to determine the following:
 - (1) Information is disseminated to the appropriate units on a timely basis.
 - (2) Disseminated information is relevant to assist directed patrol, to be used by staff for planning purposes, and to generate public support.

References: CALEA Standards
Career Criminal Apprehension Program Grant

* Highlighted text is new

