

Police Review Commission meeting of Sept. 26, 2018

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

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I. Lexipol polices changed from General Order (G.O.)

Lexipol #	G.O.	Title
100	A-1	Law Enforcement Authority
103	P-18	Policy Manual
200	D-2, D-6, R-4, U-3	Organizational Structure and Responsibility
201	S-4	Special Orders
202	D-9	Emergency Management Plan
203	T-7	Training Policy
204	E-12	Electronic Mail
302	H-6, T&IB 247	Handcuffing
308	Council Res. 51,408-N.S.	Canines
310	D-5	Domestic Violence
311	S-6	Search and Seizure

II. No change from General Order

Lexipol	G.O.	Title
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401	B-4	Racial or Bias-Based Profiling
414	A-18	Use of Narcan (Naloxone)
508	A-2	Crossing Guard
611	D-1	Licensed Liquor Establishments, Conduct of
706	V-11	Rescue Vehicle
802	P-65, P-66, P-67	Property and Evidence
810	P-33	Computer Voice Stress Examinations
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903	T-2	Transportation of Prisoners
1002	P-15	Special and Temporary Duty Assignments, Application and Selection Procedures
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III. "New" – no corresponding General Order

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102	Oath of Office
205	Administrative Communications
309	Officer Response to Calls
334	Anti-Reproductive Rights Crimes Reporting
336	Mandatory School Employee Reporting
345	Native American Graves Protection and Repatriation
416	Emergency Utility Service
417	Aircraft Accidents
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1009	Smoking and Tobacco Use
1011	Seat Belts
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1019	Payroll Record Procedures
1023	Personal Appearance Standards
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Recommendations of Lexipol Policies Subcommittee

For Sept. 26, 2018 PRC meeting

Lexipol #100 Law Enforcement Authority

Section 100.2 – Policy

Part of this section reads: “. . . officers are encouraged to use sound discretion in the enforcement of the law.”

The Subcommittee would like to see the following language from General Order A-01, section 3, included: [sworn officers should be] “courteous and respectful, exercise sound discretion in the performance of their duties, and enforce laws in a fair and impartial manner.”

BPD Response: There is an entire separate policy on fair and impartial policing, and professional standards of conduct in G.O. P-26, that address these concepts. Trying not to have too much duplication in the policies.

Lexipol #201 Special Orders

Section 201.3 – Acceptance of Special Orders

The Subcommittee would like to know why acknowledgment of receipt of special orders was deleted, and believes that at a minimum, electronic acknowledgment should be required, as it is not burdensome. They believe that the best practice approach by Lexipol is for acknowledgement and receipt of instruction on special orders and the filing of such acknowledgements as part of the training process. The subcommittee also believes that deleting this requirement goes against the BPD's argument for going with Lexipol in order to incorporate and establish "best practices" Is this requirement provided for somewhere else?

BPD Response: There are many different types of special orders, e.g., training orders and operational orders. Not all of them apply to all personnel. Captain's instructions are temporary orders; might require acknowledgment of those.

Lexipol #204 Electronic Mail

Section 204.3 -- Prohibited use of email

“Shall” is being changed to **should** be used for official business use only. This ties to email record management and the CA Public Records Act. What Lexipol deems as a best practice is being removed. The use of official emails by any and all members of the department must be for official use only at all times. The Subcommittee believes “shall” carries a larger intent and directive than “should,” without nuance or room for interpretation, and requests that the former directive be reinstated.

BPD Response: On occasion, email is used to announce a personal matter of interest to all personnel, such as the birth of a child.

Lexipol #308 Canines

Section 308.3 – Requests for Canine Teams

The Lexipol policy allows the request for a canine team to be made by the Department with the approval of the Chief (or his/her designee) or the City Manager. This is a change from the current policy, which requires approval by the City Manager (or the Chief of Police in emergency situations when the City Manager is not immediately available). The current policy should remain in place.

BPD Response: Will consider staying with current policy.

I. Lexipol polices changed from General Order (G.O.)

Lexipol #	G.O.	Title
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Law Enforcement Authority

100.1 PURPOSE AND SCOPE

The purpose of this policy is to affirm the authority of the members of the Berkeley Police Department to perform their functions based on established legal authority.

100.2 POLICY

It is the policy of the Berkeley Police Department to limit its members to only exercise the authority granted to them by law.

While this department recognizes the power of peace officers to make arrests and take other enforcement action, officers are encouraged to use sound discretion in the enforcement of the law. This department does not tolerate the abuse of law enforcement authority.

100.3 PEACE OFFICER POWERS

Sworn members of this department are authorized to exercise peace officer powers pursuant to applicable state law (Penal Code § 830.1 et seq.).

100.3.1 DELIVERY TO NEAREST MAGISTRATE

When an officer makes an arrest pursuant to a warrant issued in a county other than where the person was arrested, the officer shall inform the person of the right to be taken before a magistrate in the county where the warrant was issued (Penal Code § 821; Penal Code § 822).

100.3.2 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE BERKELEY POLICE DEPARTMENT

The arrest authority outside the jurisdiction of the Berkeley Police Department includes (Penal Code § 830.1; Penal Code § 836):

- (a) When the officer has probable cause to believe the person committed a felony.
- (b) When the officer has probable cause to believe the person has committed a misdemeanor in the presence of the officer and the officer reasonably believes there is immediate danger to person or property or of escape.
- (c) When the officer has probable cause to believe the person has committed a misdemeanor for which an arrest is authorized even if not committed in the presence of the officer such as certain domestic violence offenses and there is immediate danger to person or property or of escape or the arrest is mandated by statute.
- (d) When authorized by a cross jurisdictional agreement with the jurisdiction in which the arrest is made.
- (e) In compliance with an arrest warrant.

On-duty arrests will not generally be made outside the jurisdiction of this department except in

cases of hot or fresh pursuit, while following up on crimes committed within the City or while assisting another agency.

On-duty officers who discover criminal activity outside the jurisdiction of the City should when circumstances permit, consider contacting the agency having primary jurisdiction before attempting an arrest.

100.3.3 ARREST AUTHORITY INSIDE THE JURISDICTION OF THE BERKELEY POLICE DEPARTMENT

The arrest authority within the jurisdiction of the Berkeley Police Department includes (Penal Code § 830.1; Penal Code § 836):

- (a) When the officer has probable cause to believe the person has committed a felony, whether or not committed in the presence of the officer.
- (b) When the officer has probable cause to believe the person has committed a misdemeanor in this jurisdiction and in the presence of the officer.
- (c) When the officer has probable cause to believe the person has committed a public offense outside this jurisdiction, in the presence of the officer and the officer reasonably believes there is an immediate danger to person or property, or of escape.
- (d) When the officer has probable cause to believe the person has committed a misdemeanor for which an arrest is authorized or required by statute even though the offense has not been committed in the in the presence of the officer such as certain domestic violence offenses.
- (e) In compliance with an arrest warrant.

100.3.4 TIME OF MISDEMEANOR ARRESTS

Officers shall not arrest a person for a misdemeanor between the hours of 10:00 p.m. of any day and 6:00 a.m. of the next day unless (Penal Code § 840):

- (a) The arrest is made without a warrant pursuant to Penal Code § 836 which includes:
 - 1. A misdemeanor committed in the presence of the officer.
 - 2. Misdemeanor domestic violence offenses (See the Domestic Violence Policy).
- (b) The arrest is made in a public place.
- (c) The arrest is made with the person in custody pursuant to another lawful arrest.
- (d) The arrest is made pursuant to a warrant which, for good cause shown, directs that it may be served at any time of the day or night.

100.4 INTERSTATE PEACE OFFICER POWERS

Peace officer powers may be extended to other states:

- (a) As applicable under interstate compacts, memorandums of understanding or mutual aid agreements in compliance with the laws of each state.
- (b) When an officer enters an adjoining state in close or fresh pursuit of a person believed to have committed a felony (ARS § 13-3832; NRS 171.158; ORS 133.430).

The person arrested out of state must be taken without unnecessary delay before a magistrate of the county in which the arrest was made (ARS § 13-3833; NRS 171.158; ORS 133.440).

100.5 CONSTITUTIONAL REQUIREMENTS

All members shall observe and comply with every person's clearly established rights under the United States and California Constitutions.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: December 10, 2009

GENERAL ORDER A-01

SUBJECT: AUTHORITY - LIMITS AND DISCRETIONARY USE

PURPOSE

- 1 - The purpose of this General Order is twofold:
 - (a) To establish the legal authority that is vested in sworn police officers employed by the City of Berkeley; and
 - (b) To define discretion and authority; and, to establish a policy for its use by sworn personnel of the Berkeley Police Department.

DEFINITIONS

- 2 - Discretion is defined as the freedom or authority to make decisions and choices. Authority is defined as the power to enforce laws.

Discretion is not limited to what is authorized or what is legal, but includes all that is within the limits of the officer's authority.

POLICY

- 3 - The quality of police service depends upon the manner in which it is exercised. It is the policy of the Berkeley Police Department that sworn officers should always seek to **be courteous and respectful, exercise sound discretion in the performance of their duties, and enforce laws in a fair and impartial manner.**

PROCEDURES

- 4 - California Penal Code Section 830.1 establishes "any police officer of a city" as a peace officer. The authority of any such peace officer extends to any place in the State of California:
 - (a) As to any public offense committed or which there is probable cause to believe has been committed within the political subdivision which employs him/her; or
 - (b) Where he/she has the prior consent of the Chief of Police, or person authorized by him/her to give such consent, if the place is within a city or of the Sheriff or person authorized by him/her to give such consent, if the place is within a county; or
 - (c) As to any public offense committed or which there is probable cause to believe has been committed in his/her presence, and with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of such offense.

* Highlighted text is new.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: December 10, 2009

GENERAL ORDER A-01

- 5 - When sworn personnel are faced with a situation where discretion can be exercised, they shall carefully evaluate the circumstances and consider the following areas:
- (a) Federal, state, and local statutes
 - (b) Case law
 - (c) Training
 - (d) Departmental policies and procedures
 - (e) Consultation with a supervisor: should also be considered when further clarification is needed.
- 6 - A sworn employee exercising discretion must carefully evaluate the circumstances. For example:
- (a) In a misdemeanor crime situation the use of discretion is sharply limited. An arrest for a misdemeanor can only be made without a warrant:
 - (1) Whenever the officer has probable cause to believe that the person to be arrested has committed a public offense in his/her presence. (See California Penal Code Section 836).
 - (2) When a person is under the age of 18 and the officer has reasonable cause to believe the minor is a person described in sections 601, and 602 of California Welfare and Institutions Code. (See California Welfare and Institutions Code Section 625).
 - (b) In the investigation of a felony a greater degree of discretionary judgment is permitted. An arrest for a felony can be made without a warrant:
 - (1) When a person arrested has committed a felony, although not in the officer's presence;
 - (2) Whenever the officer has probable cause to believe the person to be arrested has committed a felony. (See California Penal Code Section 836).

References: CALEA Standards Manual
California Penal Code Sections 830.1 and 836
General Order C- 10
California Welfare and Institutions Code Section 625

Policy Manual

103.1 PURPOSE AND SCOPE

The manual of the Berkeley Police Department is hereby established and shall be referred to as the Policy Manual or the manual. The manual is a statement of the current policies, rules and guidelines of this department. All members are to conform to the provisions of this manual.

All prior and existing manuals, orders and regulations that are in conflict with this manual are rescinded, except to the extent that portions of existing manuals, procedures, orders and other regulations that have not been included herein shall remain in effect, provided that they do not conflict with the provisions of this manual.

103.2 POLICY

Except where otherwise expressly stated, the provisions of this manual shall be considered as guidelines. It is recognized that the work of law enforcement is not always predictable and circumstances may arise which warrant departure from these guidelines. It is the intent of this manual to be viewed from an objective standard, taking into consideration the sound discretion entrusted to members of this department under the circumstances reasonably available at the time of any incident.

103.2.1 DISCLAIMER

The provisions contained in the Policy Manual are not intended to create an employment contract nor any employment rights or entitlements. The policies contained within this manual are for the internal use of the Berkeley Police Department and shall not be construed to create a higher standard or duty of care for civil or criminal liability against the City, its officials or members. Violations of any provision of any policy contained within this manual shall only form the basis for department administrative action, training or discipline. The Berkeley Police Department reserves the right to revise any policy content, in whole or in part.

103.3 AUTHORITY

The Chief of Police shall be considered the ultimate authority for the content and adoption of the provisions of this manual and shall ensure compliance with all applicable federal, state and local laws. The Chief of Police or the authorized designee is authorized to issue Special Orders, which shall modify those provisions of the manual to which they pertain. Special Orders shall remain in effect until such time as they may be permanently incorporated into the manual.

103.4 DEFINITIONS

The following words and terms shall have these assigned meanings throughout the Policy Manual, unless it is apparent from the content that they have a different meaning:

Adult - Any person 18 years of age or older.

CCR - California Code of Regulations (Example: 15 CCR 1151).

CHP - The California Highway Patrol.

CFR - Code of Federal Regulations.

City - The City of Berkeley.

Non-sworn - Employees and volunteers who are not sworn peace officers.

Department/BPD - The Berkeley Police Department.

DMV - The Department of Motor Vehicles.

Employee - Any person employed by the Department.

Juvenile - Any person under the age of 18 years.

Manual - The Berkeley Police Department Policy Manual.

May - Indicates a permissive, discretionary or conditional action.

Member - Any person employed or appointed by the Berkeley Police Department, including:

- Full and part-time employees
- Sworn peace officers
- Reserve, auxiliary officers
- Non-sworn employees
- Volunteers.

Officer - Those employees, regardless of rank, who are sworn peace officers of the Berkeley Police Department.

On-duty - A member's status during the period when he/she is actually engaged in the performance of his/her assigned duties.

Order - A written or verbal instruction issued by a superior.

POST - The California Commission on Peace Officer Standards and Training.

Rank - The title of the classification held by an officer.

Shall or will - Indicates a mandatory action.

Should - Indicates a generally required or expected action, absent a rational basis for failing to conform.

Supervisor - A person in a position of authority that may include responsibility for hiring, transfer, suspension, promotion, discharge, assignment, reward or discipline of other department members, directing the work of other members or having the authority to adjust grievances. The supervisory exercise of authority may not be merely routine or clerical in nature but requires the use of independent judgment.

The term "supervisor" may also include any person (e.g., officer-in-charge, lead or senior worker) given responsibility for the direction of the work of others without regard to a formal job title, rank or compensation.

When there is only one department member on-duty, that person may also be the supervisor, except when circumstances reasonably require the notification or involvement of the member's off-duty supervisor or an on-call supervisor.

USC - United States Code.

103.5 ISSUING THE POLICY MANUAL

An electronic version of the Policy Manual will be made available to all members on the department network for viewing and printing. No changes shall be made to the manual without authorization from the Chief of Police or the authorized designee.

Each member shall acknowledge that he/she has been provided access to, and has had the opportunity to review the Policy Manual and Special Orders. Members shall seek clarification as needed from an appropriate supervisor for any provisions that they do not fully understand.

103.6 PERIODIC REVIEW OF THE POLICY MANUAL

The Chief of Police will ensure that the Policy Manual is periodically reviewed and updated as necessary.

103.7 REVISIONS TO POLICIES

All revisions to the Policy Manual will be provided to each member on or before the date the policy becomes effective. Each member will be required to acknowledge that he/she has reviewed the revisions and shall seek clarification from an appropriate supervisor as needed.

Members are responsible for keeping abreast of all Policy Manual revisions.

Each Division ~~Captain~~Commander will ensure that members under his/her command are aware of any Policy Manual revision.

All department members suggesting revision of the contents of the Policy Manual shall forward their written suggestions to their Division ~~Captain~~Commanders, who will consider the recommendations and forward them to the command staff as appropriate.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: September 1, 1988

GENERAL ORDER P-18

SUBJECT: SUGGESTIONS

- 1 - Employees' suggestions concerning changes in procedures or operating methods shall be prepared in duplicate. The original shall be forwarded to the Chief of Police and the duplicate to the employee's immediate **Supervisor**.
- 2 - Superior officers receiving these suggestions shall note their recommendations thereon and forward through channels to the Chief of Police for disposition.
- 3 - **The employee shall be advised of what action may have been taken in response to his/her suggestion.**

Organizational Structure and Responsibility

200.1 PURPOSE AND SCOPE

The organizational structure of this department is designed to create an efficient means to accomplish our mission and goals and to provide ~~for~~ the best possible service to the public.

200.2 DIVISIONS

The Chief of Police is responsible for administering and managing the Berkeley Police Department. There are ~~four~~ divisions in the Police Department as follows:

- (a) Investigations Division
- (b) Operations Division
- (c) Professional Standards Division
- (d) Support Services Division

200.2.1 INVESTIGATIONS DIVISION

The Investigations Division is commanded by a Captain, whose primary responsibility is to provide general management, direction and control for the Investigations Division. The Investigations Division consists of the Detective Bureau and the Traffic Bureau.

200.2.2 OPERATIONS DIVISION

The Operations Division is commanded by a Captain, whose primary responsibility is to provide general management, direction and control for the Operations Division. The Operations Division consists of the Patrol Bureau and the Uniformed Patrol Community Services Bureau, and Special Operations, which includes Traffic, the Communications Center and Police Aides/Assistants.

200.2.3 PROFESSIONAL STANDARDS DIVISION

The Professional Standards Division is commanded by a Captain, whose primary responsibility is to provide general management, direction and control for the Professional Standards Division. The Professional Standards Division consists of the Professional Standards Bureau and the Personnel and Training Bureau.

200.2.4 SUPPORT SERVICES DIVISION

The Support Services Division is commanded by a Captain, whose primary responsibility is to provide general management, direction and control for the Support Services Division. The Support Services Division consists of the Support Services Bureau and the Communications Center, Technical Services and Administrative Services.

200.3 COMMAND PROTOCOL

200.3.1 SUCCESSION OF COMMAND

The Chief of Police exercises command over all personnel in the Department. During planned absences, the Chief of Police will designate a Division ~~Captain~~ ~~commander~~ to serve as the acting Chief of Police.

~~Except when designated as above, the order of command authority in the absence or unavailability of the Chief of Police is as follows:~~

- ~~(a) — Operations Division Captain~~
- ~~(b) — Investigations Division Captain~~
- ~~(c) — Support Services Division Captain~~
- ~~(d) — Professional Standards Division Captain~~
- ~~(e) — Duty Command Officer~~
- ~~(f) — Watch Commander~~

200.3.2 UNITY OF COMMAND

The principles of unity of command ensure efficient supervision and control within the Department. Generally, each employee shall be accountable to one supervisor at any time for a given assignment or responsibility. Except where specifically delegated authority may exist by policy or special assignment (e.g., ~~SRT, FTOK-9, SWAT~~), any supervisor may temporarily direct any subordinate if an operational necessity exists.

200.3.3 ORDERS

Members shall respond to and make a good faith and reasonable effort to comply with the lawful order of superior officers and other proper authority.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: January 18, 2005

GENERAL ORDER D-2

SUBJECT: DETECTIVE BUREAU

PURPOSE

- 1 - The purpose of this General Order is to establish the investigative responsibilities of the Detective Bureau.

POLICY

- 2 - It is the policy of the Berkeley Police Department that the Detective Bureau is responsible for follow-up investigations, with the exception of cases that are the responsibility of the Patrol Division (see paragraph 3 (b) below).

PROCEDURES

- 3 - The Detective Bureau, administered by a Lieutenant who is directly responsible to the Captain of the Support Services Division, is composed of **five** investigative details.
 - (a) The procedures of this General Order do not pertain to the Youth Services Detail of the Detective Bureau. The duties and responsibilities of the Youth Services Detail are described in General Order J-16 and Police Regulation 408.
 - (b) The Detective Bureau is divided into **five** investigative Details: Homicide, Robbery, Sex Crimes/**Domestic Violence Prevention Unit**, **Youth Services**, and **Property Crimes**. The Detective Sergeant in charge of each Detail is a working investigator. The respective Details have responsibility for follow-up investigations of all reported crimes listed below except for the following types of cases handled by Patrol Division:
 - (1) Auto burglary, theft from auto cases, and malicious damage to vehicles,
 - (2) Misdemeanor assault/battery cases (not sex related),
 - (3) Misdemeanor weapon brandishing cases,
 - (4) Felony and misdemeanor hit and run cases,
 - (5) Initial and second follow-up on adult missing person cases,
 - (6) Initial follow-up on juvenile missing/runaway cases,
 - (7) Abandoned auto follow-ups, when assigned,
 - (8) Re-contact for cases where the officer was unable to initially contact the victim/reporting party, or otherwise finish a "complete

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GENERAL ORDER D-2

preliminary investigation" as delineated in General Order C-2,

(9) Disturbing the Peace.

4 - The responsibilities of each Detective Bureau Detail are as follows:

(a) Homicide Detail

- (1) Homicide
- (2) Adult missing persons (after second follow-up by assigned officer)
- (3) Dead body found, suicide and attempted suicide
- (4) Escapes and jail breaking
- (5) Felony assaults and brandishings
- (6) Disturbing the peace (except those involving domestic disputes)
- (7) Disturbing phone calls (involving threat of injury or death).
- (8) Elder physical abuse**
- (9) Hate Crimes/Incidents**

(b) Robbery Detail

- (1) Robbery
- (2) Bank robbery
- (3) Bribery
- (4) Extortion
- (5) Gun sales
- (6) Hijacking
- (7) Kidnapping (no sexual involvement)
- (8) Grand theft person/gun
- (9) Till tap
- (10) Weapons (concealed, illegal or suspicious).

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GENERAL ORDER D-2

- (c) Sex Crimes Detail/Domestic Violence Prevention Unit
- (1) Sex Crimes felony and misdemeanor (Exception: Reports of molest or sexual exploitation of children under the age of 14 is the responsibility of the Youth Services Detail)
 - (2) Kidnapping (with sexual involvement)
 - (3) Rape (forcible and unlawful sexual intercourse)
 - (4) Sex Battery
 - (5) Sex registrants
 - (6) Indecent exposure
 - (7) Prowler/peeper (with sexual involvement)
 - (8) Disturbing phone calls (except those involving bomb threats or threats of physical injury)
 - (9) **Domestic Violence (for specifics refer to G.O. D-5)**
 - (10) **Meagan's Law Notification (for specifics refer to G.O. M-6)**
- (d) Property Crimes Detail
- (1) Vehicle theft and recovery (including joyriding).
 - (2) Permits for used car and wrecking businesses, and inspection of these premises pursuant to Vehicle Code section 2805.
 - (3) Malicious damage to a vehicle (coordination of series only).
 - (4) Auto burglaries (coordination of series only).
 - (5) Thefts from auto (coordination of series only).
 - (6) Counterfeiting (liaison only).
 - (7) Credit card violation **with viable leads.**
 - (8) Embezzlement **with viable leads**
 - (9) **Forgery with viable leads**
 - (10) **Counterfeit checks with viable leads**

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GENERAL ORDER D-2

- (11) **Purse/Wallet thefts (follow-up on in custody cases or where loss exceeds \$400.00)**
 - (12) **Confidence schemes i.e., Jamaican Switch, etc.**
 - (13) Computer Crimes
 - (14) **Financial Elder abuse**
 - (15) Burglary
 - (16) Stolen property (follow-up on in-custody cases)
 - (17) Thefts (follow-up on in-custody cases or loss exceeds \$400)
 - (18) Arson (follow-up on in-custody cases and damage exceeding \$1,000)
 - (19) Buy/sell operations (meet State requirement to license establishments)
 - (20) Bombings, **bomb threats** and explosions
- 5 - In addition to the **five** primary Details, the following services shall be provided: Coordinator for Services for Victims of Violent Crimes and Domestic Violence: The Coordinator is not normally responsible for the investigation of any criminal case. The primary function is one of referral and coordination, not investigation. The Coordinator is responsible for:
- (a) Liaison with governmental and community agencies which provide support services to victims of domestic violence and other forms of crime.
 - (b) Assisting victims in making use of available support services.
 - (c) Assisting in the development and implementation of in- service training programs in the general area of victim sensitivity, family crisis intervention, and domestic violence.
- 6 - In addition to the regularly assigned Detective Sergeants, Patrol Officers can be assigned to the Detective Bureau to assist in investigations.
- 7 - Requests from outside agencies for the investigations of local residents in connection with a felony shall be assigned to the Detail who would be assigned to such an offense if committed in Berkeley.
- 8 - The Detective Bureau may be notified of any reports involving the offenses listed in paragraph four received during the on-duty hours of that Bureau.

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GENERAL ORDER D-2

- 9 - When the Detective Bureau is off-duty, the regularly assigned Detective Sergeant **should** be notified immediately of all reports involving the following offenses. **If the Detective Sergeant is unavailable, the Support Services Commander should be notified.** (A list of home phone numbers is maintained in the Communications Center).
- (a) Bombings and explosions
 - (b) Escapes and jail breaking
 - (c) Homicide
 - (d) Officer Involved Shootings (The **Sergeant** in Homicide will be notified of any Officer Involved Shootings in Berkeley and any such shootings in other jurisdictions where Berkeley Police Personnel are involved.)
 - (e) **Fire Investigations, whenever a dead body is found at the fire scene**
 - (f) Kidnapping
 - (g) Residential stranger rape
 - (h) Bank robbery
- 10 - At the discretion of the Watch Commander, such notification may be made in the event of the following offenses:
- (a) Arson
 - (b) Rape, other than residential stranger rape
 - (c) Hijacking.
- 11 - In all other offenses, if a report is received when the Bureau is off-duty, the Commanding Officer on-duty or the ranking officer acting in his/her absence shall decide whether the circumstances warrant calling a Detective Sergeant.
- 12 - The following offenses are solely Detective Bureau assignments. Other officers shall respond whenever prompt action is necessary and, if needed, conduct the preliminary investigation.
- (a) Homicide
 - (b) Bank robbery.

Any subsequent investigation will be the responsibility of the regularly assigned **Detail.**

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GENERAL ORDER D-2

- 13 - In homicide offenses, under most circumstances, the initial investigation at the scene and the preparation of the crime report shall be solely a Detective Bureau assignment. Once responding officers determine a homicide has occurred (or the victim is likely to expire) and no medical aid is needed for others, the scene should be "FROZEN" and on-call Homicide personnel shall be notified. The "Homicide Guide for Supervisors," which is located in the General Information Handbook, shall also be followed. The on-call list for Homicide Detail personnel is maintained in the Communications Center.
- 14 - In bank robbery offenses, the initial investigation at the scene and the preparation of the crime report shall be solely a Detective Bureau assignment. However, this shall not relieve the first officer arriving on the scene of responsibility for obtaining immediately and transmitting to the Communications Center information essential to **promptly apprehend** the offender. During non-business hours, attempts should be made to contact Robbery Detail personnel at home. If Robbery Detail personnel are unable to respond, the Patrol Division will complete the investigation.
- 15 - Case Management: Copies of investigation reports shall be routed to the Detective Bureau and, upon receipt, will be distributed to the appropriate Detail. The Detective Sergeant in charge of each Detail shall be responsible for the assignment of follow-up investigations.
 - (a) All cases involving serious crimes against persons (i.e., Homicide, Sex Crimes, and Robbery Details) should be assigned for follow-up contact and investigation.
 - (b) Cases involving crimes against property that have no evident productive leads (usually assigned a "suspend" status by the Patrol Division) will remain in the "suspended status" following review and be filed. Cases that have potentially productive leads should be assigned for investigation.
 - (c) **Cases that involve the arrest of persons who are "Career Criminals", as defined by California Penal Code, Section 13583, shall be carefully reviewed. Detective Bureau Sergeants shall act as liaison with the Alameda County District Attorney's Office, Career Criminal Prosecution Unit, and render whatever assistance is necessary to further Career Criminal Prosecution.**

References: CALEA Standards
General Orders C-2, D-1, D-4, **D-6**, J-16, O-1, O-3, O-6, O-7, O-8, P-29,
P-31, P-61, R-18, R-19, R-20, R-21, and T-16
Penal Code Section 11114
Police Regulation 408
Report Writing Manual

BERKELEY POLICE DEPARTMENT

DATE ISSUED: January 18, 2005

GENERAL ORDER D-2

Special Order 88-75273

Special Order 91-26, issued May 12, 1991

BERKELEY POLICE DEPARTMENT

DATE ISSUED: March 1, 2000

GENERAL ORDER D-6

SUBJECT: DUTY COMMAND OFFICER PROGRAM

PURPOSE

The purpose of the Duty Command Officer (DCO) is to provide **staff level supervision*** to those persons charged with the operation of the Department **during those times when no Staff Officer is on duty.***

POLICY

All staff officers, with the exception of the Chief of Police and Deputy Chief of Police* shall serve as Duty Command Officer.

PROCEDURES

- 1 - Service as Duty Commander shall be for a one-week period, commencing at 0800 hours on Monday through 0800 hours on the following Monday.
- 2 - Selection of on-call weeks shall be based on seniority in rank.
- 3 - The Patrol Division Captain shall coordinate the selection of on-call weeks, prepare a written schedule, and distribute the schedule, when completed, to:
 - (a) The Chief of Police, each Commanding Officer, the Patrol Lieutenants' Office, the Patrol Sergeants' Office, and the Public Safety Communications Center.
- 4 - The Duty Command Officer shall be immediately available by telephone or pager unit **to provide staff level supervision either by instructions via telephone or by responding directly to the Police Department of field command post.***
 - (a) Other responsibilities may include:
 - (1) Attendance at City Council meetings
 - (2) **Attend other City meetings as assigned.***
- 5 - The Duty Command Officer shall be notified of all cases involving:
 - (a) homicide
 - (b) escape or jail break
 - (c) death or serious injury of a person in custody
 - (d) kidnapping
 - (e) missing juveniles under the age of 12 years

* Highlighted text is new

BERKELEY POLICE DEPARTMENT

DATE ISSUED: March 1, 2000

GENERAL ORDER D-6

- (f) bombing
 - (g) serious injury to an officer or caused by an officer
 - (h) officer-involved shootings
 - (i) hazardous spills
 - (j) other events which, in the judgement of the ranking on-duty officer, require Duty Command Officer notification.
- 6 - Notification shall be made at the direction of the ranking on-duty officer.
- 7 - The Duty Command Officer shall serve as the representative of the Police Department at all Police Review Commission Boards of Inquiry **and regular PRC business meetings. This duty shall include the authority to remove officers from hearings if the hearing appears out of control.***
- (a) He/she should be responsive to requests for information and/or assistance by the Police Review Commission, but should confine responses to:
 - (1) The scope of the Internal Affairs Bureau investigation.
 - (2) Department policies and procedures.
 - (3) Applicable local, state and federal laws.
 - (4) Procedures of allied agencies in the Criminal Justice System.
- 8 - A written report shall be prepared and forwarded to the Chief of Police on the day following the attended PRC Board of Inquiry. An attached exemplar shows the proper format for this report.
- 9 - Reports should be completed and delivered to the Office of the Chief on the day following the Board of Inquiry session attended.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: March 31, 1989

GENERAL ORDER R-4

SUBJECT: RESPONSIBILITY AND ACCOUNTABILITY OF DELEGATED
AUTHORITY

PURPOSE

- 1 - The purpose of this General Order is to define that responsibility which is commensurate with authority and to establish accountability for the use of delegated authority.

POLICY

- 2 - It is the policy of the Berkeley Police Department that inherent with delegated authority is the latitude to make decisions and take the necessary actions to satisfy the requirements of each assigned position. Commensurate with the authority, each employee will accept the responsibility for the use, misuse, or failure to use that authority.

PROCEDURES

- 3 - Supervisors will be held accountable for the performance of employees under their immediate control.
- 4 - When delegating, the following guidelines shall be considered:
 - (a) Delegation is a function and tool of good management and, when appropriate, Supervisors have the discretion and responsibility to delegate to subordinates.
 - (b) When authority is delegated, it shall be the responsibility of the Supervisor to ensure the subordinate has the power to act and has the ability to carry out the assignment. Correspondingly, no one shall be assigned responsibility for work without being delegated authority to direct the manner of its performance.
 - (c) Supervisors should advise subordinates that they will be held accountable for the exercise of the delegated authority.
 - (d) Although the subordinate may be held accountable for his/her actions, nothing in this policy absolves the Supervisor from ultimate responsibility and accountability for the supervision of subordinates and the use of delegated authority.

References: CALEA Standards
Municipal Police Administration

BERKELEY POLICE DEPARTMENT

DATE ISSUED: March 31, 1989

GENERAL ORDER U-3

SUBJECT: UNITY OF COMMAND

PURPOSE

- 1 - The purpose of this General Order is to establish clear-cut lines of authority within the police department in order to promote employee effectiveness, responsibility, and to reduce confusion.

DEFINITION

- 2 - The principle of Unity of Command states that every employee should be under the direct control of one and only one immediate Supervisor.

POLICY

- 3 - It is the policy of the Berkeley Police Department that the principle of unity of command shall be practiced in all organizational components of the Department to the extent possible.

PROCEDURES

- 4 - Every employee should be accountable to only one Supervisor.
- 5 - Only one person should be in complete command of any operation or incident.
- 6 - However, in the case of an emergency, a Supervisor is not relieved of the responsibility to act, even though a subordinate or incident is not under the Supervisor's direct command.

References: CALEA Standards
Municipal Police Administration

Special Orders

201.1 PURPOSE AND SCOPE

Special Orders establish an interdepartmental communication that may be used by the Chief of Police to make immediate changes to policy and procedure consistent with the current Memorandum^s of Understanding and as permitted by Government Code § 3500 et seq. Special Orders will immediately modify or change and supersede sections of this manual to which they pertain.

201.1.1 SPECIAL ORDER PROTOCOL

Special Orders will be incorporated into the manual as required upon approval of Staff. Special Orders will modify existing policies or create a new policy as appropriate and will be rescinded upon incorporation into the manual.

~~All existing Special Orders have now been incorporated in the updated Policy Manual as of the below revision date.~~

Any Special Orders ~~issued after publication of the manual~~ shall be numbered consecutively starting with the ~~last two digits of the year~~, followed by the number 001. For example, ~~2019 - 001 12-01~~ signifies the first Special Order for the year 2019 2.

201.2 RESPONSIBILITIES

201.2.1 COMMAND STAFF

~~Command~~ The staff shall review and approve revisions of the Policy Manual, which will incorporate changes originally made by a Special Order.

201.2.2 CHIEF OF POLICE

The Chief of Police or his/her designee shall issue all Special Orders.

~~201.3 ACCEPTANCE OF SPECIAL ORDERS~~

~~All employees are required to read and obtain any necessary clarification of all Special Orders. All employees are required to acknowledge in writing the receipt and review of any new Special Order. Signed acknowledgement forms and/or e-mail receipts showing an employee's acknowledgement will be maintained by the Personnel and Training Sergeant.~~

BERKELEY POLICE DEPARTMENT

DATE ISSUED: August 24, 2001

GENERAL ORDER S-4

SUBJECT: STAFF REVIEW OF WRITTEN DIRECTIVES

PURPOSE

- 1 - The purpose of this General Order is to establish a policy and procedure for staff review of proposed Department directives prior to their implementation.

DEFINITION

- 2 - Written directives are defined as any document that is intended to affect or guide the action of Department employees. Written directives include Captain's Instructions, Special Orders, General Orders, Administrative Instructions, Training and Information Bulletins and any instructional material. The Berkeley Police Department has a formal written directive system that provides all employees with a clear understanding of the constraints under which they should operate and the expectations they should fulfill. Written directives are available to all employees in an organized and accessible format.

POLICY

- 3 - All directives require supervisory/staff review prior to being issued.
 - (1) An approved routing/approval cover sheet shall accompany all material.*

PROCEDURES

- 4 - The preparation of directives affecting only one division of the Police Department shall be the primary responsibility of the Division Commanding Officer.
 - (a) Prior to being issued, all orders shall be reviewed for accuracy and completeness by appropriate or affected supervisory staff.
- 5 - Directives affecting more than one division of the Department require the final approval of the Chief of Police. In these instances the Chief of Police will assign the responsibility for the preparation of the directive to the division that is impacted the greatest or possesses the primary expertise for its completion. The assigned Captain will research and review the directive with the other affected Captains, and obtain their input prior to finalization. When the directive is completed it shall be submitted to the Chief of Police for approval prior to being issued.

Reference: CALEA Standards
General Order P-23

*Entire text is new.

Emergency Management Disaster Response Plan

202.1 PURPOSE AND SCOPE

The ~~Department City~~ has prepared an Disaster Response Emergency Management Plan for use by all employees in the event of a major disaster or other emergency event. The plan provides for a strategic response by all employees and assigns specific responsibilities in the event that the plan is activated (Government Code § 8610).

202.2 ACTIVATING THE EMERGENCY PLAN

The Disaster Response Emergency Management Plan can be activated on the order of the Watch Commander or ranking Sergeant, official designated by local ordinance.

202.2.1 RECALL OF PERSONNEL

In the event ~~that~~ the Disaster Response Emergency Management Plan is activated, all employees of the Berkeley Police Department are subject to immediate recall. Employees may also be subject to recall during extraordinary circumstances as deemed necessary by the Chief of Police or the authorized designee.

Failure to promptly respond to an order to report for duty may result in discipline.

202.3 LOCATION OF THE PLAN

The Emergency Management Disaster Response Plan is available in multiple locations throughout the PSB including the Patrol Sergeants Office and Support Services and the Watch Commander's office. All supervisors should familiarize themselves with the Disaster Response Emergency Management Plan. ~~The Support Services supervisor should ensure that department personnel are familiar with the roles police personnel will play when the plan is implemented.~~

202.4 UPDATING OF THE PLAN MANUALS

The Operations Captain Chief of Police or designee shall review the Disaster Response Emergency Management Plan Manual at least once every two years to ensure that the manual conforms to any revisions made by the National Incident Management System (NIMS) and the Standardized Emergency Management System (SEMS) and should appropriately address any needed revisions.

202.5 PROCEDURES

202.5.1 EVACUATION OF THE PUBLIC SAFETY BUILDING (PSB)

Employees shall determine if an evacuation of the PSB is warranted (fire, smoke, collapse, unusual odors, attack). In some cases it may be safer to stay inside and shelter in place. If an evacuation is warranted, employees shall notify their supervisor, co-workers, and the Communications Center. Employees should not use the elevators. Employees shall evacuate to the northwest corner of Civic Center Park (Center St. and Martin Luther King Jr. Way) where

supervisors should account for all personnel.

202.5.2 DISASTER DURING OFF DUTY HOURS

If a disaster occurs during off-duty hours, employees should first assure the security of their immediate family and make any needed short term arrangements. Employees should then do the following:

- (a) Contact the Communications Center and/or their direct supervisor for instructions as to when to report to work. If the employee is unable to make contact with the Communications Center or their direct supervisor due to disrupted communications, they shall report to work as follows:
 - 1. All off-duty employees (on a regularly scheduled work day wherein they have not yet started) shall report for duty as soon as possible after taking care of family arrangements.
 - 2. All off-duty employees (on a day off or who have completed their regularly scheduled duty shift for that day) shall report for duty twelve hours after the disaster strikes or at their regular duty time, whichever comes first.
- (b) Employees should listen to emergency radio stations for further information. Emergency stations are: KCBS 740 AM, KGO 810 AM, and Radio Berkeley 1610 AM.

202.5.3 DISASTER WORK IN ANOTHER JURISDICTION

In the event an employee is not able to return to the City of Berkeley because of road conditions, he/she has the option to become a disaster service worker in the jurisdiction where he/she resides.

If an employee elects to become a disaster service worker in the jurisdiction where he/she resides, they are required to contact that agency's Communications Center for further instructions. The employee shall then advise the BPD Communications Center and/or their direct supervisor of their intent to work in that jurisdiction. Once the employee reports for duty in that jurisdiction, they should attempt to obtain written documentation regarding their assignment, i.e. an operations plan or list of assignments.

- (a) In order to receive payment for disaster service work in another jurisdiction, employees are required to complete an improvised timesheet and have it approved by their temporary supervisor in that jurisdiction. The employee shall then submit the timesheet to their BPD supervisor where it will be processed through the normal payroll procedure. It is recommended that the employee keep track of their own hours as a backup of timekeeping records.
- (b) Employees are required to communicate with the BPD Communication Center and/or their direct BPD supervisor and return to work as soon as travel to the City is possible.

202.5.4 WAGES

Employees will be paid regular wages while performing disaster work, in accordance with the terms of their collective bargaining unit's Memorandum of Understanding.

Employees who do not report to work at the City of Berkeley or in another jurisdiction during the emergency will be considered on unpaid leave unless the employee submits documentation which supports justification to receive paid leave.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: April 15, 1997

GENERAL ORDER D-9

SUBJECT: DISASTER PREPAREDNESS

PURPOSE

- 1 - The purpose of this Order is to outline the Administrative Regulation which sets forth the City's policy with regard to responsibilities for all city employees in the event of a disaster.

POLICY

- 2 - This policy is in accordance with California Government Code, Title 1, Div. 4, Ch. 8, Sections 3100, 3101 which requires all government employees to provide disaster assistance throughout any disaster. In addition to state law, Berkeley Municipal Code section 2.88.060c, provides that the City Manager, while in the role of Director of Emergency Services, has the authority to require all city employees to become disaster service workers. This Administrative Regulation is promulgated under the authority granted to the City Manager in section 2.88.060A.7.C.
 - (a) It is the responsibility of each department head to establish the policies and procedures for all departmental employees to follow in the event of a disaster.
 1. The procedures should be clear on the duties and responsibilities that are to be taken by all departmental employees during a disaster, including where employees are to assemble after a disaster (during normal work hours), where they are to report for duty, and to whom to report.
 2. The policies and procedures should outline the duties and responsibilities of each department employee depending on the type of disaster, (e.g.; earthquake, hazardous materials, flood).
 3. It is the responsibility of each employee to be knowledgeable of his or her duties and responsibilities as a disaster worker in the event of an emergency.

PROCEDURES

- 3 - If the disaster occurs during normal working hours, employees will be required to do the following:
 - (a) All employees will be expected to remain on duty at their work stations until dismissed by their supervisors or other competent authority. Every attempt possible will be made by the City to assist each employee in communicating with his or her family.
 1. If your work site is not habitable, report to the police parking lot for

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DATE ISSUED: April 15, 1997

GENERAL ORDER D-9

further instructions.

- (b) On a daily basis, employees will be required to complete special timekeeping forms to account for:
 - 1. The kind of disaster work performed,
 - 2. The number of hours worked, and
 - 3. The location where work was performed.
 - (c) Employees will be paid normal salary while performing disaster work in accordance with the terms of the applicable union agreements or personnel rules and regulations.
- 4 - If the disaster occurs during off-duty hours, the employee is to first assure the security of their immediate family and make any short term arrangements which may be needed. All employees should then take one of the following action(s):
- (a) Employees should listen to emergency radio stations for further information and instructions. Emergency stations are: KCBS-740 AM, KGO-810 AM, or Radio Berkeley-1610 AM.
 - (b) Every effort should be made by employees to contact the Communication Center at 644-6921, for instructions as to when to report to work. If you cannot reach the Communication Center, report to work according to the schedule below:
 - 1. All personnel off duty on a work day (not yet started) - report for duty as soon as possible after taking care of your family.
 - 2. All personnel off duty on a day off or who have completed their duty shift for that day - report for duty twelve (12) hours after the disaster strikes.
 - (c) Check Department Voice Mail first. If the system is working, Voice Mail will be used to update reporting times and provided additional information as needed.
- 5 - In the event an employee is not able to return to the City of Berkeley because road conditions prevent travel to the City, he/she has the option to become a disaster service worker in the city where he or she resides.
- (a) If an employee elects to become a disaster service worker at another municipality, he/she is required to contact that agency's personnel department for further instructions and to obtain written documentation of their new assignment. The employee is still required to immediately contact his/her City of Berkeley supervisor/Command Officer to provide

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information regarding his/her working at the other municipality.

1. In order to receive normal salary for disaster service work at another municipality, employees will be required to complete time sheets approved by their supervisor at the other agency with regard to the number of hours worked. Time sheets are to be submitted to the employee's City of Berkeley supervisor and processed through the normal payroll procedure. It is highly recommended that you keep track of your hours as a back up/check comparison of timekeeping records.
 2. Employees are required to communicate with the Communication Center as soon as possible after the disaster and return to their City of Berkeley duty stations as prescribed in their department's disaster policy and procedures, as soon as travel to the City is possible.
- (b) Employees who do not report to work at the City of Berkeley or at another municipality during the emergency will be considered on unpaid leave unless the employee submits documentation which supports justification to receive paid leave.

References: BPD Disaster Response Manual
CALEA Standards

Training Policy

203.1 PURPOSE AND SCOPE

It is the policy of this department to administer a training program that will provide for the professional growth and continued development of its personnel. By doing so, the Department will ensure its personnel possess the knowledge and skills necessary to provide a professional level of service that meets the needs of the community.

203.2 PHILOSOPHY

The Department seeks to provide ongoing training and encourages all personnel to participate in advanced training and formal education on a continual basis. Training is provided within the confines of funding, requirements of a given assignment, staffing levels, and legal mandates. Whenever possible, the Department will use courses certified by the California Commission on Peace Officer Standards and Training (POST).

203.3 OBJECTIVES

The objectives of the Training Program are to:

- (a) Enhance the level of law enforcement service to the public
- (b) Increase the technical expertise and overall effectiveness of our personnel
- (c) Provide for continued professional development of department personnel

203.4 TRAINING PLAN

A training plan will be developed and maintained by the Personnel and Training Bureau Officer and Sergeant. It is the responsibility of the Personnel and Training Bureau Officer and Sergeant to maintain, review, and update the training plan on an annual basis. ~~The plan will address the following areas:~~

203.5 TRAINING SERGEANT

The Training Sergeant shall supervise the Training Officer and be assigned to the Professional Standards Division, Personnel and Training Bureau, under the immediate supervision of the Personnel and Training Bureau Lieutenant. However, he/she may be required to report directly to the Professional Standards Division Captain or Chief of Police on training or administrative matters, as necessary.

203.6 TRAINING OFFICER MANAGER

The Training Officer shall be assigned to the Professional Standards Division, Personnel and Training Bureau, under the immediate supervision of the Training Sergeant. The Training Officer will work with the Training Sergeant in the coordination of Departmental training.

Training Officer Duties:

The Training Officer shall be responsible for management of the Departmental training function,

including but not limited to the following:

Identifying training needs.

Scheduling, coordination, and evaluation of in-house and outside training programs.

Notifying personnel of required training and that training which is available to Department personnel.

Maintaining Departmental training materials.

Monitoring to training attendance and maintaining attendance records.

Implementing training programs.

Developing and maintaining roll call training programs.

Evaluating training programs.

Participating in local and regional training associations.

Reviewing lesson plans for Department in-service training programs.

Inclusion of community engagement, problem solving and quality of service in training.

Implementing Departmental-wide Continuing Professional Training (CPT) on a regular basis.

203.6203.7 TRAINING PROCEDURES

(a) All employees assigned to attend training shall attend as scheduled unless previously excused by their immediate supervisor. Excused absences from mandatory training should be limited to the following:

1. Court appearances
2. ~~First choice~~Scheduled vacation
3. Sick leave
4. Physical limitations preventing the employee's participation.
5. Emergency situations

~~5-6. Time constraints involving ongoing investigations and with Supervisor approval~~

(b) When an employee is unable to attend mandatory training, that employee shall:

1. Notify his/her supervisor as soon as possible but no later than one hour prior to the start of training.
2. ~~Document his/her absence in a memorandum to his/her supervisor.~~
- 3-2. Make arrangements through his/her supervisor and the Personnel and Training Bureau Officer or Sergeant to attend the required training on an alternate date.

~~203.8 DAILY TRAINING BULLETINS~~

~~The Lexipol Daily Training Bulletins (DTBs) is a web-accessed system that provides training on the Berkeley Police Department Policy Manual and other important topics. Generally, one training~~

bulletin is available for each day of the month. However, the number of DTBs may be adjusted by the Personnel and Training Bureau Sergeant.

Personnel assigned to participate in DTBs should only use the password and login name assigned to them by the Personnel and Training Bureau Sergeant. Personnel should not share their password with others and should frequently change their password to protect the security of the system. After each session, employees should log off the system to prevent unauthorized access. The content of the DTBs is copyrighted material and shall not be shared with others outside of the Department.

Employees who are assigned to participate in the DTB program should complete each DTB at the beginning of their shift or as otherwise directed by their supervisor. Employees should not allow uncompleted DTBs to build up over time. Personnel may be required to complete DTBs missed during extended absences (e.g., vacation, medical leave) upon returning to duty. Although the DTB system can be accessed from any Internet active computer, employees shall only take DTBs as part of their on-duty assignment unless directed otherwise by a supervisor.

203.9 Supervisors will be responsible for monitoring the progress of personnel under their command to ensure compliance with this policy. TRAINING AUTHORIZATION

All training should be approved first through the appropriate staffing Lieutenant.

Those assigned to attend training during their regular duty shift shall attend in an on-duty status. Those assigned to training not during their regular duty shift shall flex their schedule in order to attend in an on-duty status. Employees shall not "flex" or adjust their schedule in order to attend training and receive either paid overtime or compensatory time.

All outside training requests shall be approved by the employee's Division Captain.

203.10 EMPLOYEE RESPONSIBILITY

Personnel of any classification may be required to attend assigned training.

All employees are expected to achieve and maintain levels of work proficiency as established by the Chief of Police. Employees who fail to achieve or maintain a level of proficiency as established will be required to achieve or regain such level within a period of time and under conditions as determined by the Chief of Police.

All employees shall be expected to perform their job functions in the manner in which they were trained.

Employees shall give particular attention to the safety needs of all personnel and shall bring any safety-related errors found in procedures or training to the attention of their supervisor for appropriate action.

Employees who exhibit unsafe tactical field procedures shall be interviewed by their supervisor, who shall make a determination as to whether or not an update in training is in order. If the supervisor is unable to provide such training, with the permission of the Division Captain, he/she shall contact the Training Sergeant for advice on how best to proceed.

When an employee is assigned to a departmental training, a Departmental Training Order will be

issued as soon as possible prior to the training date. The Order directs the employee to attend the assigned training. Should there be a scheduling conflict, the employee shall notify their immediate supervisor and contact the Training Officer as soon as possible in order to reschedule the training date.

203.11 TRAINING TIME CREDIT RECORD, EVALUATION FORM AND EXPENSE ACCOUNT

All employees attending outside Department sponsored training, shall complete and submit a Training Time Credit Record form and expense account to the Personnel and Training Bureau within five days of the completion of training.

1. The Training Sergeant shall be responsible for examining the Training Time Credit Record form for accuracy and shall route the forms through the chain of command for review and approval if compensation is sought (e.g., paid overtime, compensatory time); and a copy shall be maintained in the employee's training file.
2. The Training Sergeant shall route the expense account form to the Personnel and Training Bureau Assistant Management Analyst for reimbursement per Administrative Regulation 3.4, and POST requirements.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: September 16, 2004

GENERAL ORDER T-7

SUBJECT: TRAINING POLICY

PURPOSE

- 1 - The purpose of this training policy is to define roles and responsibilities in the Departmental Training Program and to set up guidelines within which mandated and professional development training are to be accomplished, **monitored and compensated.**

POLICY

- 2 - It shall be the policy of this Department to make available to its employees mandated training, safety training, and professional development training. It is the responsibility of each supervisor to insure that employees under his/her direction attend Departmental training as scheduled.

PROCEDURES

- 3 - The Training Sergeant shall be assigned to the Administrative Division, Personnel and Training Bureau, under the immediate supervision of the Administrative **Division Lieutenant**. However, he/she may be required to report directly to the **Administrative Captain** or Chief of Police on training or administrative matters, as necessary.
- 4 - **The Training Manager shall be assigned to the Administrative Division, Personnel and Training Bureau, under the immediate supervision of the Training Sergeant. The Training Manager will work with the Training Sergeant in the coordination of Departmental training.**

TRAINING SERGEANT RESPONSIBILITIES

- 5 - The Training Sergeant shall be responsible for coordination of all training activities related to operational needs of the Department.
- 6 - The Training Sergeant shall be responsible for seeing that training needs are carried out according to the priorities specified in paragraph 10 of this Order.
- 7 - The Administrative Captain or his/her designee may act as the Department's Information Liaison Officer when requested through appropriate channels by any City official, governmental body, or court for an explanation of the training provided by the Department covering a specified situation.
- 8 - The Administrative Captain or his/her designee shall attend designated Department Staff meetings to discuss training matters as necessary and at the request of the Police Chief shall attend Staff critiques, Boards of Review, or any disciplinary hearing wherein training is a factor.

*Highlighted text is new.

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DATE ISSUED: September 16, 2004

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TRAINING SERGEANT DUTIES

- 9 - The Training Sergeant shall be responsible for management of the Departmental training function, including but not limited to the following:
- (a) Identifying training needs.
 - (b) Planning and development of training programs.
 - (c) Scheduling, coordination, and evaluation of in-house and outside training programs.
 - (d) Notifying personnel of required training and that training which is available to Department personnel.
 - (e) Maintaining Departmental training materials.
 - (f) Monitoring to ensure that required training programs are attended.
 - (g) Reviewing for content all training materials prior to Departmental distribution.
 - (h) Implementing training programs.
 - (i) Conducting training in areas of his/her own expertise.
 - (j) Developing and maintaining roll call training programs.
 - (k) Selecting instructors.
 - (l) Maintaining training records.
 - (m) Evaluating training programs.
 - (n) Developing and maintaining the training budget.
 - (o) Participating in local and regional training associations.
 - (p) Reviewing and approving lesson plans for Department in-service training programs.
 - (1) **All in-service training programs must provide the Training Sergeant a detailed outline, which describes the lesson plan prior to actual training. The lesson plan should include:**
 - i. **Guidelines and format for lesson plan development,**
 - ii. **A statement of performance and job related objectives and,**

*Highlighted text is new.

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- iii. **The content of the training and specification of the appropriate instructional techniques.**
 - (1) **After review by the Training Sergeant, the lesson plan is submitted for approval by the Chief of Police via Chain of Command.**
 - (q) **Inclusion of community engagement, problem solving and quality of service in training.**
 - (r) **Implementing Departmental-wide CIP training on a regular basis.**

TRAINING GOALS AND PRIORITIES

- 10 - Training goals are: (1) to improve law enforcement service to the community, (2) to increase the effectiveness of individual personnel, and (3) to provide for career development of Department personnel. Training goals will be accomplished in accordance with the following list of priorities:
 - (a) Statutory mandates.
 - (b) POST requirements.
 - (c) Standards and Training for Corrections (STC) requirements
 - (d) Safety training.
 - (e) Job-specific training.
 - (f) All other Department needs.
 - (g) Professional development training.

TRAINING NEEDS ASSESSMENT

- 12 - The Training Sergeant and the Training Manager shall meet individually with the Division Commanders annually to assess training needs for their Divisions and to plan future training programs.
- 13 - Each Division Commander shall be responsible for analyzing and preparing a comprehensive list of training needs within his/her Division. These training needs shall be provided to the Training Sergeant at the **beginning of each timesheet.**

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DATE ISSUED: September 16, 2004

GENERAL ORDER T-7

TRAINING AUTHORIZATION

- 14 - All training needs to be approved first through the appropriate staffing Lieutenant.
- 15 - Those assigned to attend this training during their regular duty shift shall attend in an on-duty status. Those assigned to training not during their regular duty shift shall voluntarily flex their schedule in order to attend in an on-duty status. Employees shall not "flex" or adjust their schedule in order to attend training and receive either paid overtime or compensatory time.
- 16 - All outside training requests shall be approved by the designated employee's Division Commander.

EMPLOYEE RESPONSIBILITY

- 17 - Personnel of any classification may be required to attend assigned training.
- 18 - All employees are expected to achieve and maintain levels of work proficiency as established by the Chief of Police. Employees who fail to achieve or maintain a level of proficiency as established will be required to achieve or regain such level within a period of time and under conditions as determined by the Chief of Police.
- 19 - All employees shall be expected to perform their job functions in the manner in which they were trained.
- 20 - Employees shall maintain all Training Manuals and Training and Information Bulletins supplied by the Berkeley Police Department.
- 21 - Employees receiving training circulars or announcements from outside contacts shall route a copy of the material to the Training Manager for inclusion in the master training schools file.
- 22 - Employees shall give particular attention to the safety needs of all personnel and shall bring any safety-related error found in procedures or training to the attention of their supervisor for appropriate action.
- 23 - Employees who exhibit unsafe tactical field procedures shall be interviewed by their supervisor, who shall make a determination as to whether or not an update in safety training is in order. If the supervisor is unable to provide such training, with the permission of the Division Commander, he/she shall contact the Training Sergeant for advice on how best to proceed.

*Highlighted text is new.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: September 16, 2004

GENERAL ORDER T-7

- 24 - Any employee attending a newly developed outside training course may be required to provide the Training Sergeant with copies of all instructional material, a written synopsis of the course, a course evaluation and recommendation for future employee assignments to it.
- 25 - **When an employee is assigned to a departmental training, a Departmental Order will be issued as soon as possible prior to the training date. The order directs the employee to attend the assigned training. Should there be a scheduling conflict, the employee is to notify their immediate supervisor and contact the Training Sergeant as soon as possible in order to reschedule the training date.**

TRAINING TIME CREDIT RECORD, EVALUATION FORM, AND EXPENSE ACCOUNT

- 26 - All employees attending Department sponsored training, either inside or outside, shall complete and submit a Training Time Credit Record form, course evaluation form and expense account to the Personnel and Training Bureau within five (5) days of the completion of training.
- (a) The Training Sergeant shall be responsible for examining the Training Time Credit Record form for accuracy and shall route the forms:
- (1) Through the chain of command for review and approval if compensation is sought (e.g., paid overtime, compensatory time); and
 - (2) A copy shall be maintained in the employee's training file.
- (b) The Training Sergeant shall route the expense account form to the Personnel and Training Assistant Management Analyst for reimbursement per Administrative Regulation 3.4, and P.O.S.T. requirements.
- (c) The Training Sergeant shall review the Course Evaluation Form to insure that the course met Department standards (e.g., quality instruction, satisfactory facilities, etc.).

References: City of Berkeley Administrative Regulation 3.4
TR-282
General Orders C-46 and P-28

Electronic CommunicationMail

204.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper use and application of the Department's electronic communication systems~~mail (email) system~~ by employees of this department. Electronic communication mail is a ~~communication~~ tool available to employees to enhance efficiency in the performance of job duties and is to be used in accordance with generally accepted business practices and current law (e.g., California Public Records Act). Messages transmitted over the email system must only be those that involve official business activities or contain information essential to employees for the accomplishment of business-related tasks and/or communication directly related to the business, administration, or practices of the Department.

Employees shall check their email and Crime Forum accounts for new messages at least two times each duty shift.

(a) It is recommended that the accounts be checked close to the beginning and end of each shift worked in order to maximize the employee's exposure to new mail messages and crime information.

When requested by the sender of a message, or as otherwise necessary or appropriate, employees shall respond to received email in a timely fashion.

Misaddressed email should be sent back to the original sender with a notation the message was misaddressed.

Employees may forward or re-distribute copies of email messages only when doing so fulfills a legitimate work-related purpose.

204.2 EMAIL RIGHT OF PRIVACY

All email messages, including any attachments, that are transmitted over department networks are considered department records and therefore are department property. The Department reserves the right to access, audit or disclose, for any lawful reason, any message including any attachment that is transmitted over its email system or that is stored on any department system.

The email system is not a confidential system since all communications transmitted on, to or from the system are the property of the Department. Therefore, the email system is not appropriate for confidential communications. If a communication must be private, an alternative method to communicate the message should be used instead of email. Employees using the Department's email system shall have no expectation of privacy concerning communications utilizing the system.

Employees should not use personal accounts to exchange email or other information that is related to the official business of the Department.

204.3 PROHIBITED USE OF EMAIL

Sending derogatory, defamatory, obscene, disrespectful, sexually suggestive and harassing or any other inappropriate messages on the email system is prohibited and may result in discipline.

Email messages addressed to the entire department ~~are should~~ only to be used for official business related items that are of particular interest to all users ~~and must be approved by the Chief of Police or a Division Commander~~. Personal advertisements are not acceptable.

Email messages addressed to the entire city must be approved by the Chief of Police or City Manager.

It is a violation of this policy to transmit a message under another user's name. Users are strongly encouraged to log off the network when their computer is unattended. This added security measure would minimize the misuse of an individual's email, name and/or password by others.

204.3.1 SECURITY

Employees should protect the security of their email and Crime Forum accounts by regularly changing their private network login password.

(a) Employees shall not share their private network login password or Crime Forum password with any other individual.

204.3.2 ELECTRONIC SNOOPING

"Electronic snooping" or misuse of another employee's email or Crime Forum account is prohibited.

(a) "Electronic snooping" is the unauthorized use, or attempted use, of, another employee's network access password, or the unauthorized entry, or attempted entry, to the computer files and communications of another without that person's expressed consent.

204.3.3 PROHIBITED MESSAGES

Use of the email or Crime Forum systems to send messages of a threatening, harassing, obscene or profane manner is prohibited.

(a) Electronic communications containing offensive or inappropriate content, or which is otherwise in violation of this Policy, shall be forwarded to the recipient's supervisor for appropriate administrative action.

(b) An employee who observes another person use the City's email system inappropriately shall immediately notify their supervisor, or if unavailable, the next person in their Chain of Command.

204.4 EMAIL RECORD MANAGEMENT

Email may, depending upon the individual content, be a public record under the California Public Records Act and must be managed in accordance with the established records retention schedule and in compliance with state law.

~~The Custodian of Records shall ensure that email messages are retained and recoverable as outlined in the Records Maintenance and Release Policy~~

BERKELEY POLICE DEPARTMENT

DATE ISSUED: August 15, 2013

GENERAL ORDER E-12

SUBJECT: ELECTRONIC COMMUNICATIONS

PURPOSE

- 1 - This Order sets forth policy with regard to access to, use of, and disclosure of electronic communications - messages sent or received by Department employees with the use of the City of Berkeley's email system and Berkeley Police Crime Forum (Crime Forum).

POLICY

- 2 - All email and Crime Forum computer files are the property of the City of Berkeley, regardless of their physical location or form in which they are maintained.
- 3 - All employees shall comply with the requirements set forth in this Order in their use of the City's email, Crime Forum systems, and Web/Cloud access.
 - (a) An employee's use of the City's email, Crime Forum systems, and Web/Cloud storage implies their knowledge of, and agreement to comply with, the policies and procedures set forth in this Order.

PROCEDURES

Electronic Communications -- Limited To Official Purposes

- 4 - Employees shall use electronic communications systems in an appropriate and professional manner for official business.
 - (a) In addition to activities and communications that further the interests of this Department and the City of Berkeley, "official business" may include work-related social events, such as lunches, retirement parties, birthdays, and notices of bereavement.
- 5 - Employees shall check their email account **and Crime Forum Account** for new messages at least two times each duty shift.
 - (a) It is recommended that email **and the Crime Forum** be checked close to the beginning and end of each shift worked in order to maximize the employee's exposure to new mail messages and crime information.
- 6 - When requested by the sender of a message, or as otherwise necessary or appropriate, employees shall respond to received email in a timely fashion.
- 7 - Misaddressed email shall be sent back to the original sender with a notation the message was misaddressed.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: August 15, 2013

GENERAL ORDER E-12

- 8 - Employees may forward or re-distribute copies of email messages only when doing so fulfills a legitimate work-related purpose.
- 9 - Use of the email or Crime Forum systems to send messages of a threatening, harassing, obscene or profane manner is prohibited.
 - (a) Electronic communications containing offensive or inappropriate content, or is otherwise in violation of this Order, shall be forwarded to the recipient's supervisor for appropriate administrative action.
 - (b) An employee who observes another person use the City's email system inappropriately shall immediately notify their supervisor, or if unavailable, the next person in their Chain of Command.
- 10 - Employees shall exercise discretion when sending Department-wide email messages, and restrict such broad dissemination to matters having Department-wide importance.
 - (a) Fundraising events not specifically sanctioned or endorsed by the Department should not be the subject of Department-wide email messages.
 - (b) Employees shall not send a City-wide mass email message without the prior authorization of the Chief of Police or City Manager.
- 11 - Employees shall manage the volume of email messages in their City email account to ensure their mailbox does not become "full" and unable to receive new messages.
 - (a) Employees should not rely on the City email server as an archive for their email files.

Account Security

- 12 - Employees should protect the security of their email and Crime Forum accounts by regularly changing their private network login password.
 - (a) Employees shall not share their private network login password or Crime Forum password with any other individual.
- 13 - "Electronic snooping" or misuse of another employee's email account or Crime Forum account is prohibited.
 - (a) "Electronic snooping" is the unauthorized use, or attempted use, of, another employee's network access password, or the unauthorized entry, or attempted entry, to the computer files and communications of another without that person's expressed consent.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: August 15, 2013

GENERAL ORDER E-12

Department Access to Electronic Mail

- 14 - The Department shall have the right to access and disclose all messages sent over and contained in the City's email and Crime Forum systems.
- 15 - The Department shall have the right to delete or retain any email file of an employee who is no longer employed by the City of Berkeley.

Electronic Communication Systems, Initiation/Cancellation of Access

- 16 - The Professional Standards Division Captain, or his/her designee, shall ensure the Department of Information Technology is notified when an employee is hired, or subsequent to the employee's service termination, in order to add or cancel that person's email system access.
- 17 - Non-employees may be authorized by the Chief of Police to use the email or Crime Forum systems on a case-by-case basis, and only upon the condition that the non-employee shall use the system according to the rules and procedures established in this Order and has been given access to the system in accordance with Department of Information Technology protocols.

Crime Forum Administration

- 18 - The Investigations Division Crime Analysis Detail will conduct the day to day moderation of content of the Berkeley Police Crime Forum. Crime Analysis Detail Personnel will be assigned to the Forum as "Moderator".
- 19 - The Professional Standards Bureau will conduct routine audits of the Crime Forum to ensure compliance with this order. The Professional Standards Bureau will be assigned to the Forum as "Administrator".
- 20 - The City of Berkeley Department of Information Technology will maintain the Berkeley Police Crime Forum.
- 21 - Crime Forum content will only be retained for a period of 5 years. Information posted to the Crime Forum will be automatically deleted if the information is unused for a period of 5 years.
- 22 - The Crime Forum shall not be used as a repository for digital evidence. Digital evidence must be stored in accordance with General Order P-65.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: August 15, 2013

GENERAL ORDER E-12

Web and Cloud Access

- 23- In the past fifteen years, the number of crimes involving computer use and the Internet has rapidly expanded, which has in turn brought about an increase in companies and products to assist law enforcement make use of digital forensics to determine the perpetrators, methods, timing and victims of computer crime. The vast majority of those companies and products are web-based, employing "cloud" computing for storage or Software as a Service (SaaS).
- 24- When information and applications are stored remotely, they can be accessed from any permitted device with an Internet connection, including laptops, tablets, and smart phones. Thus, the Department must address security and privacy issues for each device accessing cloud computing spaces and services.
- 25- The Criminal Justice Information Services (CJIS) Security Policy sets the minimum standards for security requirements to ensure confidentiality, integrity and availability of criminal justice information maintained by the Federal Bureau of Investigation Criminal Justice Information Services Division. In order to access CJIS data, the Berkeley Police Department has a formal agreement in place with FBI CJIS affirming compliance with the policy. In accordance with CJIS Security Policy addressing web and Cloud access, the following protocols shall be followed:
- (a) Employees have access to and may perform investigative activities on their systems, data and content.
 - (b) Employees are prohibited from uploading for storage, posting, linking to, emailing or otherwise transmission of any content that:
 - i. violates local, state, federal or international laws or regulations
 - ii. install programs or configure systems to allow the monitoring, or "sniffing," of data traveling over a shared network
 - (c) The Department must maintain a list of authorized users and accounts that are permitted to remotely access web and Cloud systems.
 - i. The list will be maintained by the City of Berkeley IT ATA CLETS coordinator.
 - ii. Employees shall notify the CLETS administrator of usage by submitting information as to date, time, site accessed and purpose.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: August 15, 2013

GENERAL ORDER E-12

iii. **Log of access shall be maintained for a period of one year.**

PUBLIC RECORDS, DISCLOSURE OF EMAIL

26 - Employees should be aware that all records, whether on paper or computerized, are subject to the mandatory public disclosure requirements of the Public Records Act, subject to the exceptions provided under the Act.

References: Administrative Regulation 4.2, General Order R-23, General Order P-65

Handcuffing and Restraints

302.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of handcuffs and other restraints during detentions and arrests.

302.2 POLICY

The Berkeley Police Department authorizes the use of restraint devices in accordance with this policy, the Use of Force policy and department training. Restraint devices shall not be used to punish, to display authority or as a show of force.

302.3 ALTERNATIVE MEANS OF RESTRAINT

Alternative Means of Restraint include but are not limited to:

- (a) Handcuffing the person with their hands in front of their body
- (b) Handcuffing the person with multiple sets of linked handcuffs
- (c) Use of the entire WRAP system
- (d) Use of the WRAP's ankle strap
- (e) Use of plastic handcuffs "flex-cuffs"
- (a)(f) An ambulance gurney with five point straps

302.4 USE OF RESTRAINTS

Only members who have successfully completed Berkeley Police Department -approved training on the use of restraint devices described in this policy are authorized to use these devices.

When deciding whether to use any restraint, officers should carefully balance officer safety concerns with factors that include, but are not limited to:

- (a) The circumstances or crime leading to the arrest.
- (b) The demeanor and behavior of the arrested person.
- (c) The age and health of the person.
- (d) Whether the person ~~may be~~ ~~is known to be~~ pregnant.
- (e) Whether the person has a hearing or speaking disability. In such cases, consideration should be given, safety permitting, to handcuffing to the front in order to allow the person to sign or write notes.
- (f) Whether the person has any other apparent disability.

302.4.1 RESTRAINT OF DETAINEES

Situations may arise where it may be reasonable to restrain an individual who may, after brief investigation, be released without arrest. Unless arrested, the use of restraints on detainees should continue only for as long as is reasonably necessary to assure the safety of officers and others. When deciding whether to remove restraints from a detainee, officers should continuously weigh the safety interests at hand against the continuing intrusion upon the detainee.

302.4.2 RESTRAINT OF PREGNANT PERSONS

~~Persons who are known to be pregnant should be restrained in the least restrictive manner that is effective for officer safety and in no event shall these persons be restrained by the use of leg irons, waist chains or handcuffs behind the body. If a person's hands cannot be restrained behind their back because of pregnancy, officers will attempt to accommodate their condition by using alternative means of restraint.~~

No person who is in labor, delivery or recovery after delivery shall be handcuffed or restrained except in extraordinary circumstances and only when a supervisor makes an individualized determination that such restraints are necessary for the safety of the arrestee, officers or others (Penal Code § 3407; Penal Code § 6030).

302.4.3 RESTRAINT OF JUVENILES

A juvenile under 14 years of age should not be restrained unless he/she is suspected of a dangerous felony or when the officer has a reasonable suspicion that the juvenile may resist, attempt escape, injure him/herself, injure the officer or damage property.

302.4.4 NOTIFICATIONS

Whenever an officer transports a person with the use of restraints other than handcuffs, the officer shall inform the jail staff upon arrival at the jail that restraints were used. This notification should include information regarding any other circumstances the officer reasonably believes would be potential safety concerns or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration) that may have occurred prior to, or during transportation to the jail.

302.5 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS

Handcuffs, including temporary nylon or plastic cuffs, may be used only to restrain a person's hands to ensure officer safety.

Although recommended for most arrest situations, handcuffing is ~~discretionary and~~ not an absolute requirement of the Department. Officers should consider handcuffing any person they reasonably believe warrants that degree of restraint. However, officers should not conclude that regardless of the circumstances, in order to avoid risk every person should be handcuffed. ~~regardless of the circumstances~~

In most situations handcuffs should be applied with the hands behind the person's back. When feasible, handcuffs should be applied between the base of the palm and the ulna bone of the wrist. When feasible, handcuffs should be double-locked to prevent tightening, which may cause undue discomfort or injury to the hands or wrists.

In situations where one pair of handcuffs does not appear sufficient to restrain the individual or may cause unreasonable discomfort due to the person's size, officers should consider Alternative Means of Restraint. ~~alternatives, such as using an additional set of handcuffs or multiple plastic cuffs~~

Handcuffs should be removed as soon as it is reasonable or after the person has been searched and is safely confined within a detention facility.

302.6 APPLICATION OF SPIT HOODS/MASKS SOCKS

Spit ~~hoods/masks/socks~~ are temporary protective devices designed to prevent the wearer from ~~biting and/or~~ transferring or transmitting fluids (saliva and mucous) to others.

Spit ~~hoods-masks~~ may be placed upon persons in custody when the officer reasonably believes the person will bite or spit, either on a person or in an inappropriate place. They are generally used during application of a physical restraint, while the person is restrained, or during or after transport.

Officers utilizing spit ~~hoods-masks~~ should ensure that the spit ~~hood-mask~~ is fastened properly to allow for adequate ventilation and that the restrained person can breathe normally. Officers should provide assistance during the movement of restrained individuals due to the potential for impaired or distorted vision on the part of the individual. Officers should avoid comingling individuals wearing spit ~~hoods-masks~~ with other detainees.

Spit ~~hoods-masks~~ should not be used in situations where the restrained person is bleeding profusely from the area around the mouth or nose, or if there are indications that the person has a medical condition, such as difficulty breathing or vomiting. In such cases, prompt medical care should be obtained. If the person vomits while wearing a spit ~~hoodmask~~, the spit ~~hood-shouldmask~~ should be promptly removed and discarded. Persons who have been sprayed with oleoresin capsicum (OC) spray should be thoroughly decontaminated including hair, head and clothing prior to application of a spit ~~hoodmask~~.

Those who have been placed in a spit ~~hood-mask~~ should be continually monitored and shall not be left unattended until the spit hood is removed. Spit ~~hoods-masks~~ shall be discarded after each use.

302.7 APPLICATION OF AUXILIARY RESTRAINT DEVICES

Auxiliary restraint devices include transport belts, waist or belly chains, transportation chains, leg irons and other similar devices. Auxiliary restraint devices are intended for use during long-term restraint or transportation. They provide additional security and safety without impeding breathing, while permitting adequate movement, comfort and mobility.

Only department-authorized devices may be used. Any person in auxiliary restraints should be monitored as reasonably appears necessary.

302.6.1 USE OF THE WRAP

The WRAP may be used:

- (a) To restrain a combative person
- (b) To prevent potential violent/combative behavior
- (c) To inhibit a violent subject's effort to injure themselves
- (d) To prevent a violent subject from causing property damage
- (e) To facilitate safe physical transportation of violent/combative subjects
- (f) When conventional methods of restraint are not effective

As with any restraint device, do not assume the WRAP is escape-proof. Once applied, the subject should not be left unattended.

A person restrained by The WRAP can be placed on their side or in a sitting position. This will increase the person's oxygen recovery rate and reduce the potential for respiratory fatigue or positional asphyxia.

Only qualified personnel who have received training in the use of the WRAP should use this restraining device. Throughout the application of the WRAP, the subject must be physically controlled. Notwithstanding the subject's restraint, officers should remain aware of the person's ability to bite, spit and/or use head strikes against them.

302.6.2 TRANSPORTATION

Movement of the subject can be accomplished in three ways, depending on the level of their cooperation. The subject can either be carried, allowed to stand and shuffle walk, or be transported in a vehicle.

302.6.3 DEVICE REMOVAL

To remove the WRAP restraint, reverse the application procedure. Based on the prisoner's combativeness or level of aggression, officers should employ appropriate subject control techniques and tactics when removing restraint devices.

302.6.4 SAFETY PRECAUTIONS

Officers who use the WRAP should always be mindful of the following safety issues:

- (a) The subject should not be left unattended.
- (b) The WRAP is a temporary restraint device and is not escape-proof.
- (c) The WRAP should only be used by personnel trained in its function and application.
- (d) All device restraint straps should be checked frequently for tightness, and adjusted, as necessary, until The WRAP is removed.
- (e) The torso harness restraint straps should never be tightened to the point they interfere with the subject's ability to breathe.

(f) As soon as possible after being restrained in The WRAP, a prisoner should be placed in an upright sitting position or on their side to allow for respiratory recovery and to mitigate the potential for positional asphyxia.

(g) If a restrained subject complains of, or exhibits any of the following physiological conditions, immediate medical attention may be required:

1. Respiratory distress
2. Sudden quiet or inactivity
3. Chest pains, shooting pains down the arm
4. Change in facial color
5. Elevated temperature ("I'm burning up!")
6. Vomiting

302.8 APPLICATION OF THE WRAP'S ANKLE LEG RESTRAINT STRAP DEVICES

The WRAP's ankle strap Leg restraints may be used to restrain the legs of a violent or potentially violent person when it is reasonable to do so during the course of detention, arrest or transportation. Only restraint devices approved by the Department shall be used.

In determining whether to use the leg-restraintankle strap, officers should consider:

- (a) Whether the officer or others could be exposed to injury due to the assaultive or resistant behavior of a suspect.
- (b) Whether it is reasonably necessary to protect the suspect from his/her own actions (e.g., hitting his/her head against the interior of the patrol unit, running away from the arresting officer while handcuffed, kicking at objects or officers).
- (c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol unit).

302.7.1 GUIDELINES FOR USE OF THE ANKLE STRAP LEG RESTRAINTS

When applying leg-the ankle strap, restraints the following guidelines should be followed:

- (a) If practicable, officers should notify a supervisor of the intent to apply the ankle strap device. In all cases, a supervisor shall be notified as soon as practicable after the application of the ankle strap device.
- (b) Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.
- (c) Once secured, the person should be placed in a seated or upright position, secured with a seat belt, and shall not be placed on his/her stomach for an extended period, as this could reduce the person's ability to breathe.

-
- (d) The restrained person should be continually monitored by an officer while the ankle strap is in use. The officer should ensure that the person does not roll onto and remain on his/her stomach.
 - (e) The officer should look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.
 - (f) If in custody and transported by ambulance/paramedic unit, the restrained person should be accompanied by an officer when requested by medical personnel. The transporting officer should describe to medical personnel any unusual behaviors or other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

302.8 REQUIRED DOCUMENTATION

If an individual is restrained and released without an arrest, the officer shall document the details of the detention and the need for handcuffs or other restraints.

If an individual is arrested, the use of restraints other than handcuffs shall be documented in the related report. The officer should include, as appropriate:

- ~~(a) — The amount of time the suspect was restrained.~~
- ~~(b)~~(a) How the suspect was transported and the position of the suspect.
- ~~(e)~~(b) Observations of the suspect's behavior and any signs of physiological problems.
- ~~(d)~~(c) Any known or suspected drug use or other medical problems.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: July 12, 2010

GENERAL ORDER H-6

SUBJECT: HANDCUFFING AND TEMPORARY RESTRAINT SYSTEMS

PURPOSE

- 1 - The purpose of this General Order is to provide guidelines on the use of handcuffs and other temporary restraint systems.

POLICY

- 2 - It shall be the policy of this Department to handcuff or otherwise effectively restrain all arrested persons (excluding infraction citations where no transport is necessary), or detainees as reasonably necessary, to protect the lives and safety of officers, the public, and the person arrested.

PROCEDURES

General

- 3 - Officers shall restrain an arrested or detained person's hands behind the person's back, except as authorized in paragraph 6 of this Order.
- 4 - Temporary restraint systems shall be employed in a manner consistent with Department-approved training.
 - (a) When employed, hand or ankle cuff systems shall be double locked, if so designed.
 - (b) Officers shall not employ temporary restraint systems in a manner that results in extraordinary discomfort or would facilitate the person's opportunity to escape.
- 5 - Officers shall ensure that the restrained person is supervised at all times.
- 6 - If a person's hands cannot be restrained behind his/her back because of large body mass, physical disability, injury, or obvious state of pregnancy, without causing unnecessary pain or aggravation of the injury or disability, officers will attempt to accommodate the person's condition by using alternative means of restraint.
 - (a) Alternative means of restraint include, but are not limited to:
 - (1) Handcuffing the person with his/her hands in front of his/her body.
 - (i) If a person is handcuffed in front, the officer should use supplemental restraining devices around the person's waist to prevent him/her from striking or choking an officer or others.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: July 12, 2010

GENERAL ORDER H-6

- (2) Handcuffing the person behind the back with **multiple** sets of linked handcuffs.
- (3) **Use of a full or partial body restraint systems (e.g., the WRAP, ankle restraint systems, ambulance gurney with five-point straps, etc.)**
 - (i) **While initial use of handcuffs behind the back and hands-on control techniques may be necessary for officer safety, if circumstances dictate greater care should be taken during transportation, supplemental restraint devices and/or alternative transportation options should be considered.**
- (b) In deciding whether **restraint of a person's hands** behind his/her back will aggravate a physical disability, injury, or obvious state of pregnancy, the officer should consider the totality of circumstances, including:
 - (1) Observable signs of disability (e.g., partial paralysis, convulsive seizure activity, medic alert ID, disabled person placard, etc.);
 - (2) Statements of the person or others regarding the person's condition; and,
 - (3) Indications the person is at significant risk of positional asphyxiation (ref. **Training Bulletin #234**).

Juveniles

- 7 - **Juveniles under 12 years of age shall not be handcuffed unless** he/she:
 - (a) Resists being taken into custody;
 - (b) Threatens the officer, himself/herself, or others with harm;
 - (c) Through words or actions causes the officer to believe he/she may attempt to escape from custody; or,
 - (d) The detention is associated with a violent incident.
- 8 - **When evaluating the use of temporary restraint systems**, due consideration shall be given to the age of the juvenile and to the emotional impact which the use of handcuffs may have.

Detentions

- 9 - Handcuffing of individuals who are not under arrest, but are being detained, should be done only if reasonably necessary.

*Highlighted text is new.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: July 12, 2010

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- 10 - The use of handcuffs during a detention, and reason for their application, shall be documented in a police report.**

References: General Orders T-2 and J-18

Training and Information Bulletins #234 and 247

Special Order #03-26, "Change in Procedures – Juvenile Handcuffing and Juvenile Miranda Rights" (9/11/2003)

BERKELEY POLICE DEPARTMENT TRAINING AND INFORMATION BULLETIN



DATE: April 15, 2008

NUMBER: 247

SUBJECT: "THE WRAP" RESTRAINT

PURPOSE

Defensive tactics techniques are employed by law enforcement to control, and if necessary immobilize, violent or potentially combative people who have been taken into custody. This training bulletin is intended to familiarize Department personnel with "The WRAP" physical restraint device and guidelines for its use.

DEVICE DESCRIPTION

The WRAP, manufactured by Safe Restraints, Inc., is designed as a temporary restraining device. Comprised of a Velcro-strapped leg panel, torso harness, ankle strap, and backside handcuff carabiner, the device immobilizes the body into a straight-legged seated position. Used properly, it restricts a subject's ability to do harm to oneself or others. Officer safety is enhanced and the risk of injury to the subject is reduced.

USE OF THE WRAP

Consistent with policy detailed in General Order T-2, The WRAP may be used:

- To restrain a combative person.
- To prevent potential violent/combative behavior.
- To inhibit a violent subject's efforts to injure themselves.
- To prevent a violent subject from causing property damage.
- To facilitate safe physical transportation of violent/combative subjects.
- When conventional methods of restraint are not effective.

As with any restraint device, do not assume The WRAP is escape-proof. Once applied, **THE SUBJECT SHOULD NOT BE LEFT UNATTENDED.**

A person restrained by The WRAP can be placed on their side or in a sitting position. This will increase the person's oxygen recovery rate and reduce the potential for respiratory fatigue or positional asphyxia.

DEVICE APPLICATION

Only qualified personnel who have received training in the use of The WRAP should use this restraining device. Throughout the application of the WRAP, the subject must

***Entire text is revised.**

TIB #247 "THE WRAP" RESTRAINT (4/15/2008)

be physically controlled. Notwithstanding the subject's restraint, officers' should remain aware of the person's ability to bite, spit or use head strikes against them.

To safely apply The WRAP, it is recommended that no less than three (3) officers are involved in the following procedure:

- 1) After controlling and handcuffing the subject, restrain him/her into a prone (face down) position.
- 2) Cross the subject's ankles and secure them with The WRAP's ankle strap. Ensure the strap's black Velcro side is facing outward and the hand-carry loop is facing toward the front of the subject's body.
- 3) Slide The WRAP's restraint panel under the subject's legs and place the label marked "Knees Here" under the his/her knees.
- 4) Tightly secure the panel's three Velcro straps, starting with the strap closest to the subject's feet.
- 5) Place the handcuff chain into the torso harness' carabiner and engage the carabiner's lock mechanism.
- 6) Maintain control of the subject and reorient him/her into a seated position.
- 7) Place the harness over the subject's head and direct its restraint straps under the person's arms to the front of his/her torso. Buckle the restraint straps to the harness and pull both straps snug (do not over-tighten.)
- 8) Attach the torso harness' front tether strap to the carabiner (located at the bottom of the device's restraint panel, near the ankles) and engage the carabiner's lock mechanism.
- 9) Pull the tether strap until the subject is held by the harness system in an upright position (do not over tighten.)

TRANSPORTATION

Movement of the subject can be accomplished in three ways, depending on the level of their cooperation. The subject can either be carried, allowed to stand and shuffle walk, or be transported in a vehicle.

To safely carry a person restrained in The WRAP:

No less than three (3) officers should be employed to lift and carry a person restrained in The WRAP. Two officers hold and lift the subject from under each of his/her arms. The third officer holds and lifts via the ankle strap's carry loop. Additional officers and a "log lift" carrying technique may be used depending on the subject's size and/or level of continued violence.

IMPORTANT: Proper lifting technique should be used to prevent unnecessary injury.

To facilitate movement by shuffle walk:

If the subject has calmed and is amenable, an option to carrying is allowing the person to shuffle walk. Loosen the lower strap of the restraint panel (nearest the ankles) just enough to allow some leg movement below the subject's knees. Then, loosen the torso harness' tether strap to let the subject stand upright. Controlled and assisted by no less than two (2) officers, allow the subject to shuffle walk to the desired location.

Vehicle Transportation:

Use a transportation vehicle appropriate for the manner in which a person is restrained. If available and practical, use the vehicle's seat belt to limit the person's movement and reduce the risk of his/her injury. For additional relevant information and policy on prisoner transportation, refer to General Order T-2.

Prior to vehicle transportation, re-check all belts (on the device and vehicle safety restraints, if used) to ensure that they are securely fastened. Whenever possible, two officers should accomplish the transportation: one driver and one prisoner observer. Maintaining observation of the restrained prisoner serves to ensure The WRAP remains secure and increases the ability to determine if the subject exhibits any medical problem.

DEVICE REMOVAL

To remove The WRAP restraint, reverse the application procedure. Based on the prisoner's combativeness or level of aggression, officers should employ appropriate subject control techniques and tactics when removing restraint devices. Having a plan of action that every officer understands, working as a team, and taking sufficient time to implement the plan will enhance employee safety during this dangerous period of the subject's custody.

SAFETY PRECAUTIONS

Officers who use The WRAP should always be mindful of the following safety issues:

- THE SUBJECT SHOULD NOT BE LEFT UNATTENDED.
- The WRAP is a temporary restraint device and is not escape-proof.
- The WRAP should only be used by personnel trained in its function and application.
- All device restraint straps should be checked frequently for tightness, and adjusted, as necessary, until The WRAP is removed.
- The torso harness restraint straps should never be tightened to the point they interfere with the subject's ability to breathe.
- As soon as possible after being restrained in The WRAP, a prisoner should be placed in an upright sitting position or on their side to allow for respiratory

recovery; relieve abdominal pressure as soon as practical to mitigate the potential for positional asphyxia.

- If a restrained subject complains of, or exhibits any of the following physiological conditions, immediate medical attention may be required (refer to General Order A-17):

- Respiratory distress
- Sudden quiet or inactivity
- Chest pains, shooting pains down the arm
- Change in facial color
- Elevated temperature ("I'm burning up!")
- Vomiting

CARE, STORAGE AND MAINTENANCE

It is important The WRAP is maintained and stored in a condition ready for immediate use. When properly prepared, The WRAP can be quickly deployed and efficiently applied without adding confusion to an already chaotic situation.

To properly prepare The WRAP for storage in the carrying bag:

- 1) Detach the torso harness, lay the leg panel on a flat surface with the restraint strap side up, and open each strap.
- 2) Fold each restraint strap onto itself so that the fold (point of bend) of the strap extends an inch or two beyond the edge of the leg panel.
- 3) Ensure the panel's carabiner is unlocked and ready for use.
- 4) Keep the closed strap inside the panel as you roll the panel toward the buckle edge. Secure the rolled panel with the ankle strap, its carry loop exposed, and place into the carrying bag.
- 5) Fully extend the torso harness restraint straps and tether, leaving enough strap available to grab onto (approx. 2"-3".)
- 6) Attach the side strap buckles to their harness-mounted counterpart, roll up the harness, and place it in the carry bag's interior side compartment.

The WRAP should be inspected after each use, or minimally at a regular interval, for signs of wear or damage. If any damage is discovered, forward The Wrap to the Patrol Division Fleet Manager for repair or replacement. If cleaning is necessary, warm water and a mild detergent appropriate for use on vinyl polyester and nylon material should be used. Thoroughly rinse all components and allow them to air dry completely before returning the device to its carry bag.

Should the equipment become contaminated by blood or other bodily fluid that could transmit a blood-borne pathogen (BBP), don appropriate personal protective equipment (e.g., nitrile gloves) and place the equipment into a paper bag (double bag, if

necessary.) If decontamination cannot be accomplished prior to the end of the involved officer's duty shift, the bag containing equipment must be labeled as a bio-hazard and forwarded to the Patrol Division Fleet Manager for follow-up action.

To clean soiled equipment, use an approved disinfectant/decontaminant cleaner or well-diluted bleach solution (ten (10) parts water, one (1) part bleach). Again, any person handling/cleaning contaminated equipment must wear appropriate PPE. Soiled disposable towels and any equipment so contaminated that cleaning is impractical or not possible should be discarded in accordance with bio-hazard waste management procedures prescribed in the City's BBP Program/Exposure Control Plan.

The WRAP leg restraint panel is made of Texinene, a PVC-coated woven polyester fabric, and its straps are Nylon banding. According to TMI, LLC, a polyester fabric manufacturer, and available Material Safety Data Sheets for both materials, neither is reactive to, or harmed by, chlorine bleach. AVOID THE USE OF HYDROGEN PEROXIDE, as Texinene may be adversely effected due to chemical reaction.

CONCLUSION

The WRAP is a physical restraint device that has time and again proven its value to this department. Like any tool of our trade, training, proper use, and equipment maintenance are essential components of a successful safety system. By following the procedures and recommendations presented in this Training and Information Bulletin, this system will continue to promote both officer and prisoner safety for many years to come.

Douglas N. Hambleton
Chief of Police

References: General Orders A-17, H-6, T-2 and V-4
City of Berkeley Blood-Borne Pathogens Program,
Exposure Control Plan (November 2007)

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~~ locating missing or at risk individuals and ~~contraband~~ 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 ~~that teams of handlers and canines meet and maintain the appropriate proficiency to~~ effectively and reasonably carry out legitimate law enforcement objectives such as:

1. Apprehending a suspect where there is a threat to human life, and 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

2. Locating missing persons; or

3. Locating crime scenes.

~~308.3 ASSIGNMENT~~

~~Canine teams should be assigned to assist and supplement the Operations Division to function primarily in assist or cover assignments. However, they may be assigned by the Watch Commander to other functions, such as routine calls for service, based on the current operational needs.~~

~~Canine teams should generally not be assigned to handle routine matters that will take them out of service for extended periods of time and then only with the approval of the Watch Commander.~~

~~308.4 CANINE COORDINATOR~~

~~The canine coordinator shall be appointed by and directly responsible to the Operations Division or the authorized designee.~~

~~The responsibilities of the coordinator include, but are not limited to:~~

- ~~(a) — Reviewing all canine use reports to ensure compliance with policy and to identify training issues and other needs of the program.~~
- ~~(b) — Maintaining a liaison with the vendor kennel.~~
- ~~(c) — Maintaining a liaison with command staff and functional supervisors.~~
- ~~(d) — Maintaining a liaison with other agency canine coordinators.~~
- ~~(e) — Maintaining accurate records to document canine activities.~~
- ~~(f) — Recommending and overseeing the procurement of equipment and services for the teams of handlers and canines.~~
- ~~(g) — Scheduling all canine-related activities.~~
- ~~(h) — Ensuring the canine teams are scheduled for regular training to maximize their capabilities.~~

308.5308.3 REQUESTS FOR CANINE TEAMS

A canine team may be requested to assist the Department, with the approval of the Chief of Police (or his/her designee), or the City Manager Watch Commander. ~~Operations Division members are encouraged to request the use of a canine. Requests for a canine team from department units outside of the Operations Division shall be reviewed by the Watch Command~~

~~308.5.1~~ OUTSIDE AGENCY REQUEST

~~All requests for canine assistance from outside agencies must be approved by the Watch Commander and are subject to the following:~~

- ~~(a) Canine teams shall not be used for any assignment that is not consistent with this policy.~~
- ~~(b) The canine handler shall have the authority to decline a request for any specific assignment that he/she deems unsuitable.~~
- ~~(c) Calling out off-duty canine teams is discouraged.~~
- ~~(d) It shall be the responsibility of the canine handler to coordinate operations with agency personnel in order to minimize the risk of unintended injury.~~
- ~~(e) It shall be the responsibility of the canine handler to complete all necessary reports or as directed.~~

~~308.5.2~~ PUBLIC DEMONSTRATIONS

~~All public requests for a canine team shall be reviewed and, if appropriate, approved by the canine coordinator prior to making any resource commitment. The canine coordinator is responsible for obtaining resources and coordinating involvement in the demonstration to include proper safety protocols. Canine handlers shall not demonstrate any apprehension work unless authorized to do so by the canine coordinator.~~

308.4 APPREHENSION GUIDELINES

A canine may be used to locate and apprehend a suspect if the on scene supervisor or Watch Commander ~~the canine handler~~ reasonably believes that the individual has either committed, is committing or threatening to commit any serious offense and if ~~any of the following conditions exist:~~

- ~~(a) There is a reasonable belief the suspect poses an imminent threat of violence or serious harm to the public, any officer or the handler.~~
- ~~(b) The suspect is physically resisting or threatening to resist arrest and the use of a canine reasonably appears to be necessary to overcome such resistance.~~

~~†~~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.

~~Use of a canine to locate and apprehend a suspect wanted for a lesser criminal offense than those identified above requires approval from the Watch Commander. Absent a change in circumstances that present an imminent threat to officers, the canine or the public, such canine use should be conducted on-leash or under conditions that minimize the likelihood the canine will bite or otherwise injure the individual.~~

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

If the canine has apprehended the suspect with a secure bite, and the handler believes that the suspect no longer poses a threat, the handler should promptly command the canine to release the suspect.

308.4.1 PREPARATION FOR DEPLOYMENT

Prior to the use of a canine to search for or apprehend any suspect, ~~the canine handler and/or~~ the supervisor on-scene 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 ~~scene supervisor should~~ canine handler 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.

308.4.2 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. The handler should allow a reasonable time for a suspect to surrender and should quiet the canine momentarily 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.

If a warning is not to be given, the canine handler, when practicable, should first advise the supervisor of his/her decision before releasing the canine. In the event of an apprehension, the handler shall document in any related report how the warning was given and, if none was given, the reasons why.

308.4.3 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 and the injuries documented in the police a canine use report. 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.

~~Any unintended bite or injury caused by a canine, whether on or off duty, shall be promptly reported to the canine coordinator. Unintended bites or injuries caused by a canine should be documented in an administrative report, not in a canine use report.~~

~~If an individual alleges an injury, either visible or not visible, a supervisor shall be notified and both the individual's injured and uninjured areas shall be photographed as soon as practicable after first tending to the immediate needs of the injured party. Photographs shall be retained as evidence in accordance with current department evidence procedures. The photographs shall be retained until the criminal proceeding is completed and the time for any related civil proceeding has expired.~~

~~Canines used by law enforcement agencies are generally exempt from impoundment and reporting requirements. However, the canine shall be made available for examination at any reasonable time if requested by the local health department. The canine handler shall also notify the local health department if the canine exhibits any abnormal behavior after a bite (Health and Safety Code § 121685).~~

308.5 NON-APPREHENSION GUIDELINES

Properly trained canines may 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 canine handler is responsible for determining atthe 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.
- ~~(c) Throughout the deployment the handler should periodically give verbal assurances that the canine will not bite or hurt the individual and encourage the individual to make him/herself known.~~

~~(d) — Once the individual has been located, the handler should place the canine in a down-stay or otherwise secure it as soon as reasonably practicable.~~

~~308.7.1 ARTICLE DETECTION~~

~~A canine trained to find objects or property related to a person or crime may be used to locate or identify articles. A canine search should be conducted in a manner that minimizes the likelihood of unintended bites or injuries.~~

~~308.7.2 NARCOTICS DETECTION~~

~~A canine trained in narcotics detection may be used in accordance with current law and under certain circumstances, including:~~

- ~~(a) — The search of vehicles, buildings, bags and other articles.~~
- ~~(b) — Assisting in the search for narcotics during a search warrant service.~~
- ~~(c) — Obtaining a search warrant by using the narcotics-detection-trained canine in support of probable cause.~~

~~A narcotics-detection-trained canine will not be used to search a person for narcotics unless the canine is trained to passively indicate the presence of narcotics.~~

308.5.1 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.

308.8 HANDLER SELECTION

The minimum qualifications for the assignment of canine handler include:

- (a) — An officer who is currently off probation.
- (b) — Residing in an adequately fenced, single-family residence (minimum 5-foot high fence with locking gates).
- (c) — A garage that can be secured and accommodate a canine vehicle.
- (d) — Living within 30 minutes travel time from the Berkeley City limits.

- ~~(e) — Agreeing to be assigned to the position for a minimum of three years.~~

308.9 HANDLER RESPONSIBILITIES

~~The canine handler shall ultimately be responsible for the health and welfare of the canine and shall ensure that the canine receives proper nutrition, grooming, training, medical care, affection and living conditions.~~

~~The canine handler will be responsible for the following:~~

- ~~(a) — Except as required during appropriate deployment, the handler shall not expose the canine to any foreseeable and unreasonable risk of harm.~~
- ~~(b) — The handler shall maintain all department equipment under his/her control in a clean and serviceable condition.~~
- ~~(c) — When not in service, the handler shall maintain the canine vehicle in a locked garage, away from public view.~~
- ~~(d) — When a handler is off-duty for an extended number of days, the assigned canine vehicle should be stored at the Berkeley Police Department facility.~~
- ~~(e) — Handlers shall permit the canine coordinator to conduct spontaneous on-site inspections of affected areas of their homes as well as their canine vehicles to verify that conditions and equipment conform to this policy.~~
- ~~(f) — Any changes in the living status of the handler that may affect the lodging or environment of the canine shall be reported to the canine coordinator as soon as possible.~~
- ~~(g) — When off-duty, the canine shall be in a kennel provided by the City at the home of the handler. When a canine is kenneled at the handler's home, the gate shall be secured with a lock. When off-duty, the canine may be let out of the kennel while under the direct control of the handler.~~
- ~~(h) — The canine should be permitted to socialize in the home with the handler's family for short periods of time and under the direct supervision of the handler.~~
- ~~(i) — Under no circumstances will the canine be lodged at another location unless approved by the canine coordinator or Watch Commander.~~
- ~~(j) — When off-duty, the handler shall not involve the canine in any law enforcement activity — or official conduct unless approved in advance by the canine coordinator or Watch Commander.~~
- ~~(k) — Whenever a canine handler is off-duty for an extended number of days, it may be necessary to temporarily relocate the canine. In those situations, the handler shall give reasonable notice to the canine coordinator so that appropriate arrangements can be made.~~

308.9.1 CANINE IN PUBLIC AREAS

~~The canine should be kept on a leash when in areas that allow access to the public. Exceptions to this rule would include specific law enforcement operations for which the canine is trained.~~

- ~~(a) — A canine shall not be left unattended in any area to which the public may have access.~~
- ~~(b) — When the canine vehicle is left unattended, all windows and doors shall be secured in such a manner as to prevent unauthorized access to the dog. The handler shall also ensure that~~

~~the unattended vehicle remains inhabitable for the canine.~~

~~308.10 HANDLER COMPENSATION~~

~~The canine handler shall be available for call-out under conditions specified by the canine coordinator.~~

~~The canine handler shall be compensated for time spent in the care, feeding, grooming and other needs of the canine in accordance with the Fair Labor Standards Act (FLSA), and according to the terms of the collective bargaining agreement (29 USC § 207).~~

~~308.11 CANINE INJURY AND MEDICAL CARE~~

~~In the event that a canine is injured, or there is an indication that the canine is not in good physical condition, the injury or condition will be reported to the canine coordinator or Watch Commander as soon as practicable and appropriately documented.~~

~~All medical attention shall be rendered by the designated canine veterinarian, except during an emergency where treatment should be obtained from the nearest available veterinarian. All records of medical treatment shall be maintained in the handler's personnel file.~~

~~308.12 TRAINING~~

~~Before assignment in the field, each canine team shall be trained and certified to meet current POST guidelines or other recognized and approved certification standards. Cross-trained canine teams or those canine teams trained exclusively for the detection of narcotics and/or explosives also shall be trained and certified by the California Narcotic Canine Association (CNCA) or other recognized and approved certification standards established for their particular skills.~~

~~The canine coordinator shall be responsible for scheduling periodic training for all department members in order to familiarize them with how to conduct themselves in the presence of department canines.~~

~~All canine training should be conducted while on duty unless otherwise approved by the canine coordinator or Watch Commander.~~

~~308.12.1 EXPLOSIVE TRAINING AIDS~~

~~Officers may possess, transport, store or use explosives or destructive devices in compliance with state and federal laws (Penal Code § 18800; 18 USC § 842; 27 CFR 555.41).~~

~~Explosive training aids designed specifically for canine teams should be used whenever feasible. Due to the safety concerns in the handling and transportation of explosives, inert or non-hazardous training aids should be employed whenever feasible. The use of explosives or destructive devices for training aids by canine teams is subject to the following:~~

- ~~(a) All explosive training aids, when not in use, shall be properly stored in a secure facility appropriate for the type of materials.~~
- ~~(b) An inventory ledger shall be maintained to document the type and quantity of explosive training aids that are stored.~~

-
- ~~(c) The canine coordinator shall be responsible to verify the explosive training aids on hand against the inventory ledger once each quarter.~~
 - ~~(d) Only members of the canine team shall have access to the explosive training aids storage facility.~~
 - ~~(e) A primary and secondary custodian will be designated to minimize the possibility of loss of explosive training aids during and after the training. Generally, the handler will be designated as the primary custodian while the trainer or authorized second person on scene will be designated as the secondary custodian.~~
 - ~~(f) Any lost or damaged explosive training aids shall be promptly reported to the canine coordinator, who will determine if any further action will be necessary. Any loss of explosives will be reported to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).~~

~~308.12.2 CONTROLLED SUBSTANCE PROCEDURES~~

~~Due to the responsibilities and liabilities involved with possessing readily usable amounts of controlled substances and the ever-present danger of the canine's accidental ingestion of these controlled substances, the following procedures shall be strictly followed:~~

- ~~(a) All controlled substance training samples shall be weighed and tested prior to dispensing to the individual canine handler or trainer.~~
- ~~(b) The weight and test results shall be recorded and maintained by this department.~~
- ~~(c) Any person possessing controlled substance training samples pursuant to court order or DEA registration shall maintain custody and control of the controlled substances and shall keep records regarding any loss of, or damage to, those controlled substances.~~
- ~~(d) All controlled substance training samples will be inspected, weighed and tested quarterly. The results of the quarterly testing shall be recorded and maintained by the canine coordinator with a copy forwarded to the dispensing agency.~~
- ~~(e) All controlled substance training samples will be stored in locked, airtight and watertight cases at all times, except during training. The locked cases shall be secured in the trunk of the canine handler's assigned patrol vehicle during transport and stored in an appropriate locked container. There are no exceptions to this procedure.~~
- ~~(f) The canine coordinator shall periodically inspect every controlled substance training sample for damage or tampering and take any appropriate action.~~
- ~~(g) Any unusable controlled substance training samples shall be returned to the Property Room or to the dispensing agency.~~
- ~~(h) All controlled substance training samples shall be returned to the dispensing agency upon the conclusion of the training or upon demand by the dispensing agency.~~

~~308.12.3 CONTINUED TRAINING~~

~~Each canine team shall thereafter be recertified to a current POST, CNCA or other recognized and approved certification standards on an annual basis. Additional training considerations are as follows:~~

- ~~(a) Canine teams should receive training as defined in the current contract with the Berkeley Police Department canine training provider.~~

(b) ~~Canine handlers are encouraged to engage in additional training with approval of the canine coordinator.~~

(c) ~~To ensure that all training is consistent, no handler, trainer or outside vendor is authorized to train to a standard that is not reviewed and approved by this department.~~

~~308.12.4 FAILURE TO SUCCESSFULLY COMPLETE TRAINING~~

~~Any canine team failing to graduate or obtain certification shall not be deployed in the field for tasks the team is not certified to perform until graduation or certification is achieved. When reasonably practicable, pending successful certification, the canine handler shall be temporarily reassigned to regular patrol duties.~~

~~308.12.5 TRAINING RECORDS~~

~~All canine training records shall be maintained in the canine handler's and the canine's training file.~~

~~308.12.6 TRAINING AIDS~~

~~Training aids are required to effectively train and maintain the skills of canines. Officers possessing, using or transporting controlled substances or explosives for canine training purposes must comply with federal and state requirements regarding the same. Alternatively, the Berkeley Police Department may work with outside trainers with the applicable licenses or permits.~~

~~308.12.7 CONTROLLED SUBSTANCE TRAINING AIDS~~

~~Officers acting in the performance of their official duties may possess or transfer controlled substances for the purpose of narcotics detection canine training in compliance with state and federal laws (Health & Safety Code § 11367.5; 21 USC § 823(f)).~~

~~The Chief of Police or the authorized designee may authorize a member to seek a court order to allow controlled substances seized by the Berkeley Police Department to be possessed by the member or a narcotics detection canine trainer who is working under the direction of this department for training purposes, provided the controlled substances are no longer needed as criminal evidence.~~

~~As an alternative, the Chief of Police or the authorized designee may request narcotics training aids from the Drug Enforcement Agency (DEA).~~

~~These procedures are not required if the canine handler uses commercially available synthetic substances that are not controlled narcotics.~~

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

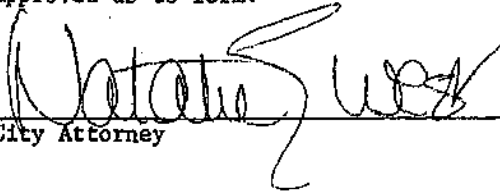
b. To assist in rescue efforts (specifically excluding the rescue of hostages); or

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

Domestic Violence

310.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to deter, prevent and reduce domestic violence through vigorous enforcement and to address domestic violence as a serious crime against society. The policy specifically addresses the commitment of this department to take enforcement action when appropriate, to provide assistance to victims and to guide officers in the investigation of domestic violence.

310.1.1 DEFINITIONS

Definitions related to this policy include:

Court order - All forms of orders related to domestic violence, that have been issued by a court of this state or another, whether civil or criminal, regardless of whether service has been made.

310.2 POLICY

The Berkeley Police Department's response to incidents of domestic violence and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic violence is criminal behavior. It is also the policy of this department to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible. In order to break the cycle of violence, the department policy is pro-arrest and focuses on proving the case with or without the victim's cooperation whenever possible.

310.3 OFFICER SAFETY

The investigation of domestic violence cases often places officers in emotionally charged and sometimes highly dangerous environments. No provision of this policy is intended to supersede the responsibility of all officers to exercise due caution and reasonable care in providing for the safety of any officers and parties involved.

310.4 INVESTIGATIONS

The following guidelines should be followed by officers when investigating domestic violence cases:

- (a) Calls of reported, threatened, imminent or ongoing domestic violence and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes incomplete 9-1-1 calls.
- (b) When practicable, officers should obtain and document statements from the victim, the suspect and any witnesses, including children, in or around the household or location of occurrence.
- (c) Officers should list the full name and date of birth (and school if available) of each child who was present in the household at the time of the offense. The names of other children who

may not have been in the house at that particular time should also be obtained for follow-up.

- (d) When practicable and legally permitted, take a written statement, a video, or ~~of~~ audio record all significant statements and observations.
- (e) All injuries and claims of injuries should be photographed, regardless of severity or visibility, taking care to preserve the victim's personal privacy. Where practicable, photographs should be taken by a person of the same sex. Victims whose injuries are not visible at the time of the incident should be asked to contact the Detective Bureau in the event that the injuries later become visible.
- (f) Officers should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable.
- (g) If the suspect is no longer at the scene, officers should make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement and make an arrest or seek an arrest warrant if appropriate.
- (h) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence. If the domestic violence involved threats of bodily harm, any firearm discovered in plain view or pursuant to consent or other lawful search must be taken into temporary custody (Penal Code § 18250).
- (i) When completing an incident or arrest report for violation of a court order, officers should include specific information that establishes that the offender has been served, including the date the offender was served, the name of the agency that served the order and the provision of the order that the subject is alleged to have violated. When reasonably available, the arresting officer should attach a copy of the order to the incident or arrest report.
- (j) Officers should take appropriate enforcement action when there is probable cause to believe an offense has occurred. Factors that should not be used as sole justification for declining to take enforcement action include:
 - 1. Marital status of suspect and victim.
 - 2. Whether the suspect lives on the premises with the victim.
 - 3. Claims by the suspect that the victim provoked or perpetuated the violence.
 - 4. The potential financial or child custody consequences of arrest.
 - 5. The physical or emotional state of either party.
 - 6. Use of drugs or alcohol by either party.
 - 7. Denial that the abuse occurred where evidence indicates otherwise.
 - 8. A request by the victim not to arrest the suspect.
 - 9. Location of the incident (public/private).
 - 10. Speculation that the complainant may not follow through with the prosecution.
 - 11. The racial, cultural, social, professional position or sexual orientation of the victim

or suspect.

310.4.1 IF A SUSPECT IS ARRESTED

If a suspect is arrested, officers should:

- (a) Advise the victim that there is no guarantee the suspect will remain in custody.
- (b) Provide the victim's contact information to the jail staff to enable notification of the victim upon the suspect's release from jail.
- (c) Advise the victim whether any type of court order will be in effect when the suspect is released from jail.

310.4.2 IF NO ARREST IS MADE

If no arrest is made, the officer should:

- (a) Advise the parties of any options, including but not limited to:
 - 1. Voluntary separation of the parties.
 - 2. Appropriate resource referrals (e.g., counselors, friends, relatives, shelter homes, victim witness unit).
- (b) Document the resolution in a report.

310.5 VICTIM ASSISTANCE

Victims may be traumatized or confused. Officers should:

- (a) Recognize that a victim's behavior and actions may be affected.
- (b) Provide the victim with the department's ~~domestic violence information handout~~ [Resources for Victims of Crime pamphlet](#), even if the incident may not rise to the level of a crime.
- (c) Alert the victim to any available victim advocates, shelters and community resources.
- (d) Stand by for a reasonable amount of time when an involved person requests law enforcement assistance while removing essential items of personal property.
- (e) Seek medical assistance as soon as practicable for the victim if he/she has sustained injury or complains of pain.
- (f) Ask the victim whether he/she has a safe place to stay. Assist in arranging to transport the victim to an alternate shelter if the victim expresses a concern for his/her safety or if the officer determines that a need exists.
- (g) Make reasonable efforts to ensure that children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.
- (h) Seek or assist the victim in obtaining an emergency protective order if appropriate.
- (i) Advise the victim of their right to confidentiality, per the P.C. 293 advisement

310.6 DISPATCH ASSISTANCE

All calls of domestic violence, including incomplete 9-1-1 calls, should be dispatched as soon as

practicable. The dispatcher, when warranted, should give a domestic violence incident the same priority as any other life threatening call and should whenever possible, dispatch two officers to the scene.

Dispatchers are not required to verify the validity of a court order before responding to a request for assistance. Officers should request that dispatchers check whether any of the involved persons are subject to the terms of a court order.

310.7 FOREIGN COURT ORDERS

Various types of orders may be issued in domestic violence cases. Any foreign court order properly issued by a court of another state, Indian tribe or territory shall be enforced by officers as if it were the order of a court in this state. An order should be considered properly issued when it reasonably appears that the issuing court has jurisdiction over the parties and reasonable notice and opportunity to respond was given to the party against whom the order was issued (18 USC § 2265). An otherwise valid out-of-state court order shall be enforced, regardless of whether the order has been properly registered with this state.

310.8 VERIFICATION OF COURT ORDERS

Determining the validity of a court order, particularly an order from another jurisdiction, can be challenging. Therefore, in determining whether there is probable cause to make an arrest for a violation of any court order, officers should carefully review the actual order when available, and, where appropriate and practicable:

- (a) Ask the subject of the order about his/her notice or receipt of the order, his/her knowledge of its terms and efforts to respond to the order.
- (b) Check available records or databases that may show the status or conditions of the order.
- (c) Contact the issuing court to verify the validity of the order.
- (d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.

Officers should document in an appropriate report their efforts to verify the validity of an order, regardless of whether an arrest is made. Officers should contact a supervisor for clarification when needed.

310.9 LEGAL MANDATES AND RELEVANT LAWS

California law provides for the following:

310.9.1 STANDARDS FOR ARRESTS

Officers investigating a domestic violence report should consider the following:

- (a) An arrest should-shall be made when there is probable cause to believe that a felony or misdemeanor domestic violence offense has been committed (Penal Code § 13701). Any decision to not arrest an adult when there is probable cause to do so requires supervisor approval.
 1. Officers are only authorized to make an arrest without a warrant for a misdemeanor

domestic violence offense if the officer makes the arrest as soon as probable cause arises (Penal Code § 836).

- (b) An officer responding to a domestic violence call who cannot make an arrest shall make a good faith effort to advise the victim of his/her right to make a private person's arrest, unless the peace officer makes an arrest for P.C. 243e(1) or P.C. 273.5. The advisement should be made out of the presence of the suspect and shall include advising the victim how to safely execute the arrest. Officers shall not dissuade victims from making a lawful private person's arrest. Officers should refer to the provisions in the Private Persons Arrests Policy for options regarding the disposition of private person's arrests (Penal Code § 836(b)).
- (c) Officers shall not cite and release a person for the following offenses (Penal Code § 853.6(a)(3)):
1. Penal Code § 243(e)(1) (battery against spouse, cohabitant)
 2. Penal Code § 273.5 (corporal injury on spouse, cohabitant, fiancé/fiancée, person of a previous dating or engagement relationship, mother/father of the offender's child)
 3. Penal Code § 273.6 (violation of protective order) if violence or threats of violence have occurred or the suspect has gone to the workplace or residence of the protected party
 4. Penal Code § 646.9 (stalking)
 5. Other serious or violent felonies specified in Penal Code § 1270.1
- (d) In responding to domestic violence incidents, including mutual protective order violations, officers should generally be reluctant to make dual arrests. Officers shall make reasonable efforts to identify the dominant aggressor in any incident. The dominant aggressor is the person who has been determined to be the most significant, rather than the first, aggressor (Penal Code § 13701). In identifying the dominant aggressor, an officer shall consider:
1. The intent of the law to protect victims of domestic violence from continuing abuse.
 2. The threats creating fear of physical injury.
 3. The history of domestic violence between the persons involved.
 4. Whether either person acted in self-defense.
- (e) An arrest shall be made when there is probable cause to believe that a violation of a domestic violence court order has been committed (Penal Code § 13701; Penal Code § 836), regardless of whether the offense was committed in the officer's presence. After arrest, the officer shall confirm that a copy of the order has been registered, unless the victim provides a copy (Penal Code § 836).

310.9.2 COURT ORDERS

(a) EMERGENCY PROTECTIVE ORDERS (EPO)

Emergency Protective Orders are intended as a temporary measure of protection until a

victim can obtain a more permanent restraining order. Police officers are not required by law to seek an EPO in each case of domestic violence; however, such orders are a valuable and effective tool that can help when intervening in cases of domestic violence and child abuse.

When an officer has reasonable grounds to believe a person is in immediate and present danger of domestic violence, or a child is in immediate and present danger of abuse or abduction by a family or household member, an officer should inform the victim of the availability of an EPO.

An officer may request an EPO regardless of the victim's preference. The officer may request an EPO whether or not the suspect is present or has been arrested.

EPOs may be issued at any time, whether or not the court is in session. In order to request an EPO the officer must contact the on-call commissioner or judge. EPOs can be valid for five court days after the issuance, but never longer than seven calendar days following the day of issuance.

- (b) An officer who obtains an emergency protective order from the court shall serve it on the restrained person if the person can be reasonably located, and shall provide the person protected or the person's parent/guardian with a copy of the order. The officer shall file a copy with the court as soon as practicable and shall have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice (Family Code § 6271; Penal Code § 646.91).
- (c) At the request of the petitioner, an officer at the scene of a reported domestic violence incident shall serve a court order on a restrained person (Family Code § 6383; Penal Code § 13710).
- (d) Any officer serving a protective order that indicates that the respondent possesses weapons or ammunition shall request that the firearm/ammunition be immediately surrendered (Family Code § 6389(c)(2)).
- (e) During the service of a protective order any firearm discovered in plain view or pursuant to consent or other lawful search shall be taken into temporary custody (Penal Code § 18250).

310.9.3 PUBLIC ACCESS TO POLICY

A copy of this domestic violence policy will be provided to members of the public upon request (Penal Code § 13701).

310.9.4 REPORTS AND RECORDS

- (a) A written report shall be completed on all incidents of domestic violence. All such reports should be documented on the appropriate form, which includes information and notations specific to domestic violence incidents as required by Penal Code § 13730.
- (b) Reporting officers should provide the victim with the case number of the report. The case number may be placed in the space provided on the [domestic-violence-victim-information-handout](#) [Resources for Victims of Crime pamphlet](#) provided to the victim. [If the](#) case number

is not immediately available, an explanation should be given regarding how the victim can obtain the information at a later time.

- (c) Officers who seize any firearm or other deadly weapon in a domestic violence incident shall issue the individual possessing such weapon a receipt and notice of where the weapon may be recovered, along with ~~the any known~~ applicable time limit for recovery (Penal Code § 18250; Penal Code § 33800; Family Code § 6389(c)(2)).

310.9.5 RECORD-KEEPING AND DATA COLLECTION

This department shall maintain records of court orders related to domestic violence and the service status of each (Penal Code § 13710), as well as records on the number of domestic violence related calls reported to the Department, including whether weapons were used in the incident ~~or whether the incident involved strangulation or suffocation~~ (Penal Code § 13730). This information is to be reported to the Attorney General monthly. It shall be the responsibility of the Public Safety Business Manager to maintain and report this information as required.

310.9.6 DECLARATION IN SUPPORT OF BAIL INCREASE

Any officer who makes a warrantless arrest for a felony or misdemeanor violation of a domestic violence restraining order shall evaluate the totality of the circumstances to determine whether reasonable cause exists to seek an increased bail amount. If there is reasonable cause to believe that the scheduled bail amount is insufficient to assure the arrestee's appearance or to protect the victim or family member of a victim, the officer shall prepare a declaration in support of increased bail (Penal Code § 1269c).

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SUBJECT: DOMESTIC VIOLENCE INVESTIGATIONS

PURPOSE

- 1 - This Order sets forth policies and procedures to be followed in the handling of cases of domestic violence. It also addresses Protective Orders issued as a result of domestic violence situations.

POLICY

- 2 - Officers shall treat all reported domestic violence as alleged criminal conduct. Officers shall treat requests for police assistance and criminal investigation from victims of domestic violence the same as all other requests for assistance in cases where there has been physical violence or the threat thereof.
- 3 - Dispute mediation shall not be used as a substitute for appropriate law enforcement actions in domestic violence cases where obvious physical violence has occurred. Even though crisis intervention is highly valuable, it should not be substituted for an appropriate criminal investigation.
- 4 - In order to break the cycle of violence, departmental policy is pro-arrest and focuses on proving the case with or without the victim's cooperation whenever possible.
 - (a) "Pro-arrest" means physical arrest is encouraged in every situation where an arrest is legally permissible.
- 5 - Dual arrests are discouraged but not prohibited. Officers shall make reasonable efforts to identify and arrest only the dominant aggressor. The dominant aggressor is the person determined to be the most significant, rather than the first aggressor. It is necessary to look at the history, both documented and undocumented to make this determination.
 - (a) The same philosophy applies to situations where mutual protective orders have been issued. (Penal Code §836(c)(3))
 - (b) Refer to Training and Information Bulletin #50 for further information on how to determine the dominant aggressor.
- 6 - Periodic training will be provided to enhance the response of officers to domestic violence incidents.

DEFINITIONS

- 7 - "Domestic Violence" (PC §13700) is defined as abuse committed against an adult or minor who is a spouse, former spouse, cohabitant, former cohabitant, or a person with whom the suspect has had a child, or is having or has had a dating or engagement relationship.

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- (a) "Cohabitant" means two unrelated persons living together for a substantial period of time, resulting in some permanency of relationship. Case law suggests that cohabitant, for purposes of this statute, assumes an intimate relationship, and precludes a solely platonic relationship. Per PC §13700, factors that may determine whether persons are cohabiting include, but are not limited to:
 - (1) Sexual relations between the parties while sharing the same living quarters.
 - (2) Sharing of income or expenses.
 - (3) Joint use or ownership of property.
 - (4) Whether the parties hold themselves out as husband and wife.
 - (5) The continuity of the relationship.
 - (6) The length of the relationship.
- (b) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself or another.
- (c) "Deadly weapon" is defined in PC §12028.5 as any weapon, the possession or concealed carrying of which is prohibited by PC §12020.

COMMUNICATIONS CENTER RESPONSE

- 8 - The dispatcher who receives a domestic violence incident call shall dispatch officers to every reported incident. PC §13702 requires law enforcement agencies to implement written policies and standards for dispatchers.
 - (a) The dispatcher, when warranted, shall give a domestic violence incident call the same priority as any other life threatening call and should, whenever possible, dispatch two officers to the scene.
- 9 - No dispatcher, while speaking with a victim of domestic violence shall discuss the victim's desire to "press charges" or "prosecute." Any comment or statement which suggests placing responsibility for enforcement action with the victim is inappropriate.
- 10 - During the initial call for assistance, the dispatcher should ask:
 - (a) Where is the emergency? What address? What apartment?
 - (b) Who am I speaking to?
 - (c) What has happened?

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- (d) Has anyone been injured? If yes, is an ambulance needed?
 - (e) Are you the victim? If no, are you a witness?
 - (f) Is the suspect present? What is his/her name? Please describe the suspect, and if not present, his/her expected whereabouts?
 - (g) Are weapons involved? If yes, what kind?
 - (h) Is the suspect under the influence of drugs or alcohol? If yes, what substance?
 - (i) Are children present?
 - (j) Have the police been to this address before? If yes, how many times?
 - (k) Does the victim have a current restraining order?
- 11 - The safety of domestic violence victims, whether the threat of violence is immediate or remote, should be the primary concern of dispatchers.

ARREST PROCEDURES

- 12 - Felony: Arrests shall be made when there is probable cause to believe that a felony has occurred.
- (a) If an officer has reasonable cause to believe that a felony has occurred, an arrest shall be made regardless of whether the officer believes the offense may ultimately be prosecuted as a misdemeanor.
- 13 - Misdemeanor: The offender shall be arrested where an officer has reasonable cause to believe that a misdemeanor has occurred in his/her presence.
- (a) Under **PC §836(d)**, an officer may make an immediate arrest when there is probable cause to believe a misdemeanor domestic violence assault or battery has occurred, even if it did not occur in the officer's presence.
 - (1) **PC §836(d)** also applies where a suspect commits an assault or battery upon a child of the suspect, a child of a person in one of the above categories (ref. paragraph 7), any other person related to the suspect by consanguinity or affinity within the second degree, or any person who is over the age of 65 and who is related to the suspect by blood or legal guardianship.
 - (2) For purposes of establishing the relationship of the parties, an unborn fetus does not qualify as a child in common.

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- (b) Under any of the circumstances described in paragraphs 12 and 13 of this Order, the officer should not ask the victim whether he or she desires prosecution.
- 14 - Pursuant to **PC §836(b)**, when an officer is not required under this Order to make an arrest, and the elements of a lawful arrest are present, officers shall inform complainants of their right, as well as how to safely make a citizen's arrest. Whenever possible, such discussion shall be held out of the presence of the suspect.
- (a) Officers shall not dissuade complainants from making a citizen's arrest.
 - (b) Anyone present who witnessed the offense (e.g., other family members) can initiate a citizen's arrest.
 - (c) Complainants shall also be informed of their rights to seek a complaint at a later time should they not wish to make a citizen's arrest.
- 15 - The existence of the elements of a crime shall be the sole factor that determines the proper method of handling the incident. The following factors, for example, are not to influence the officer's course of actions in domestic violence cases:
- (a) The marital status or domestic relationship of the suspect and complainant.
 - (b) Whether or not the suspect lives on the premises with the victim.
 - (c) Existence or lack of restraining/protective orders.
 - (d) The complainant's preference that an arrest be made, or not.
 - (e) Occupation, community status, and/or potential financial consequences of arrest.
 - (f) Complainant's history of prior complaints.
 - (g) Verbal assurance that violence will cease.
 - (h) The complainant's emotional state.
 - (i) Non-visible injuries.
 - (j) The location of the incident (i.e., public or private place).
 - (k) Speculation that the complainant may not follow through with the prosecution.
 - (l) That the case may not result in a conviction.

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- (m) Assumptions that violence is more acceptable in certain cultures.
 - (n) Language abilities or barriers (i.e., lack of English language ability on the part of the victim) and/or immigration status.
 - (o) Sexual preference or orientation of the parties.
- 16 - Before electing not to make an arrest, an officer shall obtain a supervisor's approval. The reasons for not arresting the responsible, and the supervisor's name, shall be clearly stated in the written offense reports.
- 17 - Once a suspect is arrested, General Order C-10 sets forth guidelines for releasing a person on a citation arrest. Any one of the following factors might support the likelihood of a continuing offense, making a citation release inappropriate.
- (a) The suspect has a prior history of arrests or citations involving domestic violence.
 - (b) The suspect is violating a criminal court issued stay-away order.
 - (c) The suspect has previously violated, or is currently violating valid restraining/protective orders.
 - (d) The suspect has a prior history of other assaultive behavior (e.g., arrest/convictions for battery, aggravated assaults).
 - (e) Victim or witnesses statements that the suspect has a history of physical abuse.
 - (f) Victim or witnesses statements expressing fear of retaliation or further violence should the suspect be released.
 - (g) Information about the suspect's alcohol or drug abuse, access to weapons, suicide threats or attempts, threats of kidnapping family members, or history of mental illness.
 - (h) Note: All of the above conditions also apply in deciding whether to take a juvenile offender to Juvenile Hall instead of releasing the offender to his or her parent(s)/guardian(s) as described in General Order J-1.
- 18 - Pursuant to **PC §836(c)**, when an officer is responding to a call alleging a violation of a domestic violence protective or restraining order, an arrest shall be made whether the violation occurred in or out of the officer's presence when:
- (a) The officer has probable cause to believe a willful violation has occurred, and **the restrained person has notice of the order.**

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- (b) The restrained person be deemed to have notice if:
 - (1) The victim presents to the officer proof of service of the order;
 - (2) The officer confirms with the appropriate authorities that a true copy the proof of service is on file; or,
 - (3) The person against whom the protective order was issued was present at the protective order hearing or was informed by a police officer of the contents of the protective order.
- (c) Note: An officer shall obtain a supervisor's approval prior to cite-releasing a protective order violator. The reasons for cite-release, and the supervisor's name, shall be clearly stated in the written offense reports.

SECURING WEAPONS

19 - **PC §12028.5** states that an officer who is at the scene of a domestic violence incident involving a threat to human life or a physical assault shall take temporary custody of any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual or other lawful search as necessary for the protection of the peace officer or other persons present.

- (a) The main procedural requirements of **PC §12028.5** are summarized as follows:
 - (1) The handling officer shall provide the owner, or person who possessed the weapon, a receipt describing the weapon, listing any serial number, and stating where and when it can be recovered.
 - (i) The officer shall complete the Receipt for Seizure of Firearm or Deadly Weapon. The original of this form shall be included in the report, one copy shall be provided to the Property Room, and one copy shall be provided to the owner, or person who possessed the weapon.
 - (2) No firearm or other deadly weapon seized pursuant to this section shall be held less than 48 hours.
 - (3) If the firearm or deadly weapon is not retained as evidence or because it was illegally possessed, the weapon shall be made available to the lawful owner or person who was in lawful possession 48 hours after seizure or as soon thereafter as possible, but no later than five business days after the seizure.

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- (i) Such return shall not be made without an investigation as to whether a petition should be filed to deny return of the weapon. The Domestic Violence Prevention Unit (DVPU) will be responsible for this investigation, which shall be documented in the written offense report.
 - (ii) If the weapon is not claimed by the lawful owner within seven days of the DVPU investigation, but is claimed at a later date, DVPU will conduct another follow up investigation. The Property Room shall notify the DVPU that the owner is attempting to claim the weapon.
 - (iii) **PC §12021.3(a)(1)** states any person who claims title to any firearm that is in our custody and whom wishes to have the firearm returned to him/her shall complete an application for a determination by the DOJ as to whether he or she is eligible to possess a firearm.
 - (iv) Law enforcement is mandated to determine if the firearm is stolen. If the firearm is stolen, the firearm shall not be returned to the owner until its use for evidence has been served, his/her identification of the firearm, proof of ownership and a DOJ application is completed as per **PC §12021.3(a)(1)**.
- (4) When there is reasonable cause to believe that the return of a firearm or other deadly weapon would be likely to result in endangering the victim or a person reporting the assault or threat, the Domestic Violence Prevention Unit shall so advise the owner, and within 60 days of seizure, initiate a petition in Superior Court to determine if the weapon should be returned.
- 20 - **PC §12021(g)** makes it a misdemeanor for a person who is the subject of a restraining order, and who has been informed of the terms of the order, to purchase, receive, or attempt to purchase or receive, a firearm.
- (a) **PC §166(d)(1)** expands **PC §12021(g)** making it also a misdemeanor for a person to own, possess, purchase or receive a firearm knowing he or she is prohibited from doing so by a protective order.
- 21 - Family Code §6389 gives the court the authority to prohibit a person (respondent) who is the subject of an active protective order from owning, possessing, purchasing or receiving a firearm while that protective order is in effect.
- (a) This court order may specify that the weapon is to be relinquished to local law enforcement.

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- (1) Once served with this court order, the respondent shall be prohibited from possessing any firearm for the duration of the order, or for a lesser time that is specified by the Court.
- (2) The department may charge the respondent a fee for the storage of any firearm.
- (3) Unless there are extenuating circumstances at the expiration of the order, the department shall return possession of the firearm to the respondent within five days.

VICTIM ASSISTANCE

- 22 - Medical-Assistance: If a complainant claims injuries, whether visible or not, which require medical attention, officers shall administer first aid as appropriate and arrange for paramedics to examine the injured party and provide medical treatment as necessary.
- 23 - Tenancy: When a complainant requests that an officer remove a person from the premises and it can be shown that the complainant is in lawful possession of the premises (e.g., by showing a rental agreement, canceled rent check, lease, grant deed, rent receipts or other documents, or verification from the apartment manager) and the person desired to be removed is not in lawful possession of the premises, absent extenuating circumstances the officer shall:
 - (a) Request the person leave the premises and stand by until the person has removed his/her belongings and left the premises and the key.
 - (b) Should the person refuse to leave upon request, the suspect should be arrested for any applicable section (e.g., **PC §602.5**.)
- 24 - Civil-Stand-by: When a party in a domestic violence incident requests police assistance in removing a reasonable amount of personal property to another location, officers should stand by a reasonable amount of time until the party has safely done so.
- 25 - Emergency Shelter: Officers shall assist in making arrangements to transport the victim to a shelter if the victim expresses a concern for safety or the officer determines a need exists.
- 26 - Community/Departmental Resources: Officers shall explain legal options available to the victim, including follow-up procedures and information about temporary restraining orders.
 - (a) **PC §13701** requires law enforcement personnel to provide written information to victims about shelters and other appropriate victim assistance services available in the community. The Berkeley Police Department Resource Pamphlet meets this legal requirement.

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- (1) Officers shall provide a Berkeley Police Department Resource Pamphlet to each victim of domestic violence, and this fact shall be noted on the police report. The report number shall be written on the back of the pamphlet.
 - (i) If the victim is not given a pamphlet, the officer should clearly document in the police report his/her reasons for not providing the information.
 - (ii) If a pamphlet is not given due to error, the officer should make arrangements for one to be mailed or delivered to the victim and note it in the police report.
 - (2) **Officers, whenever practical, should recommend the victim contact either the advocacy services available via the Police Department's Sex Crimes Detail or those provided Family Violence Law Center's Mobile Response Team (formerly, "ONERT"), contact information provided within the Resource Pamphlet.**
- 27 - Documentation: Officers shall complete a written report documenting his/her investigation into incidents of domestic violence. This report shall be prepared regardless of the wishes of the victim or the presence or absence of the suspect.
- (a) **PC §13730** requires that a domestic violence incident be identified on its face and that information regarding the incident be retrievable. Officers shall include a completed BPD Domestic Violence Supplemental with their report indicating:
 - (1) Whether the officer or officers who responded observed any signs that the victim and/or alleged abuser was under the influence of alcohol or a controlled substance.
 - (2) Whether the officer or officers knows of previous incidents at the same address involving the same alleged abuser or victim.
 - (3) A notation of whether weapons were involved.
 - (b) **PC §293** states that law enforcement shall inform victims of **PC §273.5** that his or her name will become a matter of public record unless he or she requests that it not become a matter of public record. (Government Code §6254 was amended to include offenses other than sexual assault.)
 - (1) Officers shall read all persons reporting victim of **PC §273.5** the Victim Advisement and Notification form, check the appropriate box, and obtain victim's signature on the form.

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- (c) Officers shall obtain victim/witness statements from all parties in all cases of domestic violence whether or not an arrest is made.
- (d) A copy of any applicable protective orders shall be attached to the report.

PROTECTIVE ORDERS - DEFINITIONS

- 28 - Civil Restraining Orders are available to anyone who is threatened with or who has experienced violence or harassment. There are several types of restraining orders. The most common one, prohibiting domestic violence is for married people, close family members, cohabitants, former cohabitants or people who have a dating or engagement relationship. Civil harassment orders are for people who have never lived together and have no children together, e.g. neighbors or co-tenants, distant family members, etc., where there was no assault or threat of assault. Restraining orders which are issued in paternity or sole custody suits are for people who are not married but have children together.
- (a) Temporary Restraining Order (TRO): This is a type of restraining order which requires a person to restrain from doing a particular act or acts. It is issued by the Municipal or Superior Court and will remain in effect until a formal court hearing can be granted (usually 3 weeks.)
 - (b) Order After Hearing: This is an order issued after a hearing on a TRO which requires a person to restrain from doing a particular act or acts. It is issued by the Superior Court, with notice to the person, who is to be restrained. An Order After Hearing will remain in effect for a set period of time which is stated on the face of the order (generally for a maximum period of 5 years). When renewed, the order can be permanent.
 - (1) Any person who willfully disobeys the terms of a restraining order is guilty of a misdemeanor under **PC §273.6(a)**.
 - (2) **PC §273.6(d)** makes it a felony to violate a restraining order, with violence or threat of violence after suffering a prior conviction of **PC §273.6**.
- 29 - Criminal Stay Away Order: This is a type of restraining order issued in a criminal case involving domestic violence where there is a likelihood of harassment of the victim by the defendant. A Stay Away Order may remain in effect as long as the suspect is under the court's jurisdiction, including any sentence or probationary period. Stay Away Orders are issued pursuant to **PC §136.2**.
- (a) Any person who willfully disobeys the terms of a Stay Away Order is guilty of a misdemeanor under **PC §166(a)(4)**.
- 30 - Emergency Protective Order (EPO): This is a type of restraining order issued by a judge at any time whether or not the court is in session. It is intended to function as a restraining order against a perpetrator of domestic violence or child

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abuse or elder abuse. The maximum duration of such an order is five court days.

- (a) Any person who willfully disobeys the terms of an emergency protective order is guilty of a misdemeanor under PC §273.6.

31 - No Harm/Annoy/Molest ("No HAM"): This type of restraining order authorizes involved parties to reside or be proximal to each other, but orders the restrained party to not harm, annoy or molest the protected party. It is intended to function as a restraining order against a perpetrator of domestic violence or child abuse or elder abuse.

- (a) **Dependant on the nature of the court order (i.e., civil protective order after hearing or criminal protective order), any person who willfully disobeys the terms of the order is guilty of a misdemeanor, either PC §166(a)(4) or PC §273.6.**

32 - Juvenile Court Protective or Restraining Order: This type of order is issued under certain sections of the Welfare and Institutions Code at any point during the juvenile court process.

- (a) Any person who willfully disobeys the terms of a juvenile court restraining or protective order is guilty of a misdemeanor under PC §273.6.

VERIFICATION OF PROTECTIVE ORDERS

33 - If, at the scene of a domestic disturbance, a person shows or informs the officer of the existence of a protective order, it will be necessary to establish the present status and terms of the order. A complete and systematic record of all protection orders is maintained in the Communications Center. These records include:

- (a) orders which have not yet been served;
- (b) orders issued pursuant to PC §136.2;
- (c) restraining orders; and,
- (d) proofs of service in effect.

34 - Whenever a complainant advises an officer of the existence of a protective order, the officer shall ascertain:

- (a) Whether the order is on file with the department, or whether the complainant has a copy in their possession, or whether the order can be verified through the Department of Justice Domestic Violence Restraining Order System (DVROS).

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- (1) Failure to file a restraining order with the police department does not invalidate the order. However, all persons obtaining a restraining order are encouraged to deliver a copy to the department.
 - (2) Note: The terms and conditions of the restraining order remain enforceable, in spite of the acts of the victim or suspect, and may be changed only by order of the court.
- (b) Whether a protective order is still valid as to duration/time.
- (1) If there is no expiration date on a civil protection order, the order is valid three years from the date of issuance, with the exception of permanent orders concerning child custody or visitation, which never expire.
 - (2) The duration of a criminal Stay-Away order varies with each order. You must:
 - (i) Request the victim show a copy of the order. Verify, through the Communications Center, that the subject is under the court's jurisdiction, or
 - (ii) Verify, through the Communications Center that a criminal Stay Away Order has been issued against the subject, or
 - (iii) Verify through the California Department of Justice Domestic Violence Restraining Order System (DVROS).
 - (3) An Emergency Protective Order is valid for five court days after issuance, but never longer than seven calendar days following the day of issuance.
- (c) Whether proof of service or prior notice exists or that the suspect was in court when the order was made.
- (d) The terms of the protective order.
- 35 - Officers shall prepare a crime report on a protective order violation regardless of the suspect's presence or absence.

PROTECTIVE ORDER ENFORCEMENT PROCEDURES

- 36 - **PC §836(c)** requires officers to make a probable cause arrest for a violation of a protective order not committed in the officer's presence. (See paragraph 18 above)

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- 37 - When the officer verifies that a protective order exists, but there is no probable cause to believe that the suspect had notice of the order, the officer should:
- (a) Inform the subject of the terms of the order.
 - (b) Admonish the subject of the order, that the subject is now on notice and that the violation of the order will result in arrest. If the subject continues to violate the order after being advised of the terms, an arrest shall be made.
 - (1) Oral notification to the respondent of the terms of the order shall be sufficient notice for the enforcement of PC §§136.2, 273.6, and 12021(g).
 - (c) If the subject complies after admonishment of the terms, the officer shall make a report showing the subject was admonished/advised of the terms of the order, the specific terms of the order the subject was advised about, the name of the admonishing officer, and the time and date.
 - (1) The department's copy of the restraining order will be updated to reflect the admonishment information. The officer shall complete a proof of service form, and provide this form to the Communication Center.
 - (2) The Communication Center will immediately transmit the notice of service to the California Department of Justice Domestic Violence Restraining Order System.
- 38 - In the event the subject has left the scene of the incident, a report shall be made and the complainant shall be advised of the follow-up criminal procedure and case number of the report.
- 39 - Refer to Training and Information Bulletin #233 for the departmental policy regarding enforcement of court orders not relating to domestic violence.

ORDERS NOT VERIFIABLE

- 40 - When the victim is not in possession of the protective order, and/or in case of computer error, officers may not be able to confirm the order's validity.
- (a) PC §13730(c) requires that officers shall write a report, give the victim the police report number and direct the victim to contact the Detective Bureau for follow-up information.
 - (b) When an order is not verifiable through the verification procedures, officers shall advise the victim of the right to make a citizen's arrest for violation of the order.

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OBTAINING A RESTRAINING ORDER

- 41 - Virtually anyone can obtain a restraining order. In cases involving children under 18 years of age, parents or legal guardians can obtain a restraining order on their behalf. There are several ways to obtain a restraining order:
- (a) The party may contact a lawyer and have the process handled by this representative.
 - (b) The party may contact local community action groups for assistance. One such organization is the Family Violence Law Center.
 - (c) A person can go to the County Clerk's Office or the Alameda County Superior Court and obtain forms and instruction material.
 - (1) Court filing fees are waived in cases of domestic violence.
 - (d) Officers are encouraged to refer concerned individuals to the Berkeley Police Department's "Coordinator of Services for Victims of Crimes and/or Domestic Violence" for additional information.
 - (1) Officers should not refer individuals to the local District Attorney's office. They are not involved in the filing process.

EMERGENCY PROTECTIVE ORDERS (EPO)

- 42 - Emergency Protective Orders are obtained by a police officer from the assigned EPO duty commissioner.
- (a) They may be issued at any time, whether or not the court is in session.
 - (b) EPOs can be valid for five court days after the issuance, but never longer than seven calendar days following the day of issuance.
- 43 - Emergency Protective Orders are intended as a temporary measure of protection until a victim can obtain a more permanent restraining order.
- (a) They are issued when an officer asserts reasonable grounds to believe that a person is in immediate and present danger of domestic violence or stalking, or when a child or dependant adult is in immediate or present danger of abuse from a household member, or a child is in immediate and present danger of abduction by a parent, guardian, or relative.
 - (b) Such an order may also exclude the suspect from the premises and determine temporary custody of minor children.
- 44 - Police officers are not required by law to seek an EPO in each case of domestic violence; however, such orders are a valuable and effective tool that can help

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when intervening in cases of domestic violence and child abuse.

- 45 - The investigating officer shall ascertain need for an Emergency Protective Order.
- (a) When an officer has reasonable grounds to believe a person is in immediate and present danger of domestic violence, or a child is in immediate and present danger of abuse or abduction by a family or household member, an officer should inform the victim of the availability of an EPO.
 - (1) An officer may request an EPO regardless of the victim's preference.
 - (b) Officers should make this determination based on the complainant's allegations of a recent incident of abuse or threat of abuse.
 - (c) The officer may request an EPO whether or not the suspect is present or has been arrested.
 - (d) The following are examples of situations in which requesting an EPO may be appropriate:
 - (1) The suspect is being arrested for a charge related to domestic violence and the officer has reasonable cause to believe the victim would be in immediate and present danger if the suspect were to be released from custody (e.g., Bail, PC §849, or Own Recognizance.)
 - (2) The suspect has a history of domestic violence.
 - (3) The victim expresses fear of retaliation or further violence.
 - (4) Threats of serious danger have been made to the victim or the victim's family.
 - (e) An officer electing not to obtain an Emergency Protective Order shall document the reasons for his/her decision in the written offense report.
- 46 - Procedures for obtaining an Emergency Protective Order:
- (a) Prior to contacting the magistrate, the officer shall fully complete the Application for Emergency Protective Order.
 - (b) The officer shall contact the designated magistrate and assert grounds for the belief that the Order is appropriate.
 - (1) The officer shall contact the duty judge, as assigned on the Alameda County Superior Court EPO Duty Schedule.

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- (i) Copies of the On-Call/Duty Judge schedule will be maintained in the Communications Center.
 - (ii) The Judge's contact telephone number(s) is (are) available through the Communications Center. If an officer is unable to reach the assigned EPO duty commissioner by phone, he or she should contact the Alameda County Sheriff's Department at (510)667-7777 for assistance.
- (c) Upon contact with the magistrate, the officer should be prepared to:
 - (1) Provide a brief description of the situation and the reasons for the request for an EPO.
 - (2) Provide the information contained on the Application for Emergency Protective Order form.
 - (3) Complete the EPO as directed by the magistrate.
- 47 - The issuance of an Emergency Protective Order shall be documented under a separate case number.
- 48 - Upon the issuance of an Emergency Protective Order:
 - (a) The officer shall serve a copy of the Order on the restrained party if the party can be reasonably located.
 - (b) The officer shall provide the protected party with a copy of the EPO along with information on how to obtain a more permanent order.
 - (c) The officer who requested the EPO shall carry a copy of the Order while still on duty.
 - (d) Upon completion of the officer's shift, a copy of the Order shall be delivered to the Communications Center for entry in California Law Enforcement Telecommunication System (CLETS), a second copy shall be included as an attachment with the case report, a third copy shall be placed in the Court Marshall's box.
 - (1) The Domestic Violence Prevention Unit shall gather basic activity statistics related to the number of EPOs requested, issued and denied. Such statistics shall be available for review by the Chiefs' and Sheriff's Association twice annually.
- 49 - When a violation of an EPO has occurred, officers shall arrest in accordance with paragraph 36 of this Order.

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OFFICER IMMUNITY

50 - A law enforcement officer who acts in good faith to enforce an Emergency Protective Order is not civilly or criminally liable.

References: Penal Code §§136.2, **166**, 273.5, 273.6, 293, 602.5, 836, **849**,
12001, **12020**, 12021, 12021.3 12028.5, 13519, 13700
13701, 13702, 13710, and 13730
Family Code §§6218 and 6389
Civil Code §§504 and 527.6
Government Code §6254
General Orders A-50, C-10, **J-1** and T-1
Training and Information Bulletins #50 and #233

Search and Seizure

311.1 PURPOSE AND SCOPE

Both the federal and state Constitutions provide every individual with the right to be free from unreasonable searches and seizures. This policy provides general guidelines for Berkeley Police Department personnel to consider when dealing with search and seizure issues.

311.2 POLICY

It is the policy of the Berkeley Police Department to respect the fundamental privacy rights of individuals. Members of this department will conduct searches in strict observance of the constitutional rights of persons being searched. All seizures by this department will comply with relevant federal and state law governing the seizure of persons and property.

The Department will provide relevant and current training to officers as guidance for the application of current law, local community standards and prosecutorial considerations regarding specific search and seizure situations, as appropriate.

311.3 SEARCHES

The U.S. Constitution generally provides that a valid warrant is required in order for a search to be valid. There are, however, several exceptions that permit a warrantless search.

Examples of law enforcement activities that are exceptions to the general warrant requirement include, but are not limited to, searches pursuant to the following:

- Valid consent
- Incident to a lawful arrest
- Legitimate community caretaking interests
- Vehicle searches under certain circumstances
- Exigent circumstances

Certain other activities are recognized by federal and state courts and by certain statutes as legitimate law enforcement activities that also do not require a warrant. Such activities may include seizure and examination of abandoned property, and observations of activities and property located on open public areas.

Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each member of this department is expected to act in each situation according to current training and his/her familiarity with clearly established rights as determined by case law.

Whenever practicable, officers are encouraged to contact a supervisor to resolve questions

regarding search and seizure issues prior to electing a course of action.

311.4 SEARCH PROTOCOL

Although conditions will vary and officer safety and other exigencies must be considered in every search situation, the following guidelines should be followed whenever circumstances permit:

- (a) Members of this department will strive to conduct searches with dignity and courtesy.
- (b) Officers should explain to the person being searched the reason for the search ~~and how the search will be conducted.~~
- (c) Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.
- (d) In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.
- (e) When the person to be searched is of the opposite sex as the searching officer, a reasonable effort should be made to summon an officer of the same sex as the subject to conduct the search. When it is not practicable to summon an officer of the same sex as the subject, the following guidelines should be followed:
 1. Another officer or a supervisor should witness the search.
 2. The officer should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon.

311.5 DOCUMENTATION

Officers are responsible to document any search and to ensure that any required reports are sufficient including, at minimum, documentation of the following:

- Reason for the search
- Any efforts used to minimize the intrusiveness of any search (e.g., asking for consent or keys)
- What, if any, injuries or damage occurred
- All steps taken to secure property
- The results of the search, including a description of any property or contraband seized
- If the person searched is the opposite sex, any efforts to summon an officer of the same sex as the person being searched and the identification of any witness officer

Supervisors shall review reports to ensure the reports are accurate, that actions are properly documented and that current legal requirements and department policy have been met.

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DATE ISSUED: May 27, 2005

GENERAL ORDER S-6

SUBJECT: SEARCH WARRANTS

PURPOSE

- 1 - The purpose of this General Order is to establish policies and procedures regarding the preparation and execution of search warrants.

DEFINITION

- 2 - A search warrant is a legal order, signed by a magistrate, allowing the search of a specified person and/or place. A search warrant consists of three parts -- the affidavit to support the issuance of the search warrant; the actual warrant, which is a court order to perform a specific search, and the return of service, which is a receipt for all items seized during the course of the search.

POLICY

- 3 - It is the policy of the Berkeley Police Department that all search warrants be obtained and served in compliance with prescribed procedures. Detailed guidelines and instructions for obtaining and processing all search warrants are contained in designated chapters in both the Special Enforcement Unit Procedural Manual and the Detective Bureau Manual. It is the policy of the Berkeley Police Department to videotape or photograph structures (i.e., residences, apartments, businesses, etc.) to document the condition of the structure before and after the service of these types of search warrants.

LEGAL

- 4 - Per Penal Code Section 1523, "a search warrant is an order in writing, in the name of the people, signed by a magistrate, directed to a peace officer, commanding him to search for personal property, and bring it before the magistrate."
 - (a) Property seized must be subject to seizure (1524 PC). Items seized must be stolen or embezzled property, contraband or evidence of a crime.
 - (b) The property sought must be described with particularity.
- 5 - Penal Code Section 1531 allows the officer to "break open any outer door or inner door or window of a house, or any part of a house, or anything therein, to execute the warrant if, after notice of his authority and purpose, he is refused admittance."
- 6 - Unless the search warrant is authorized for night service by a magistrate, the warrant shall only be served between the hours of 0700 to 2200 hours.
- 7 - Penal Code Section 1535 requires a detailed receipt be provided for the property seized pursuant to the search warrant.

*Highlighted text is new.

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- 8 - If the videotape/photographs are to be used as evidence in the criminal prosecution, judicial approval for videotaping/photographing must be obtained in the search warrant prior to the execution of the warrant.

PRELIMINARY PROCEDURES

- 9 - The "case officer" is responsible for coordinating the investigation which relates to the search warrant. Generally, the case officer is the one who has prepared the affidavit and obtained the warrant.
- 10 - Prior to any briefing or service of a search warrant, the case officer should prepare an operation plan, including personnel and equipment assignments, strategies and tactics for search and entry, and emergency/contingency plans.
- 11 - The case officer shall review the plan with a supervisory officer, obtaining approval before proceeding. A supervisor should be present during the briefing and actual warrant service.
- 12 - The case officer is responsible for notifying the Communications Center and the Patrol Division Watch Commander prior to serving the search warrant.
 - (a) If a warrant is to be served in another jurisdiction, the Watch Commander for that agency should also be notified.
- 13 - A briefing with all personnel involved in the actual search process shall be conducted by the case officer. This review shall address the overall operations plan.

SEARCH PROCEDURES

- 14 - The on-scene supervisor is responsible for directing the efforts of all personnel involved during the actual service of the search warrant, insuring adherence to the guidelines contained in the aforementioned procedural manuals.
 - (a) If there is no supervisor present on the scene, the case officer assumes the supervisory responsibilities delineated in this order.
- 15 - The supervisor is responsible for determining the manner in which entry itself is to be effected, including all aspects involved in "knock and announce," and "no knock" search warrant services.
 - (a) The supervisor also has the responsibility of making the determination of when forced entry should be attempted given the totality of the circumstance involving the specific search warrant.
- 16 - The ultimate goal behind every search is to locate all possible items of evidence, contraband, stolen or embezzled property.

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- (a) During all searches, it is essential to keep in mind that no evidence is so important as to unnecessarily warrant injury and/or death of a human being.
- 17 - Searches should be conducted in a thorough, organized and systematic manner. Focus should be on leaving nothing undiscovered within the limit/scope sanctioned by the warrant, **without causing unnecessary damage to the location or property.**
- 18 - Immediately upon entry, the entire premises are to be secured, moving all occupants within the specified location into a central area. No occupant shall be left unattended during service of the search warrant.
 - (a) The on-scene supervisor shall determine the extent of the personal search conducted on each occupant present during the search warrant service.
 - (i) The case officer, whenever possible, should be the "designated finder" in the searching process. Other officers may be assigned to assist the designated finder in this search system. Conformity and accountability are the primary reasons for this process.
 - (b) It is the responsibility of the on-scene supervisor to insure specific personnel assignments have been made relative to rooms or areas to be searched. The supervisor shall document the locations searched by assigned personnel, referencing this information under the assigned case number.
 - (c) After entering the structure to be searched the person assigned to videotape/photograph the service of the search warrant is responsible for filming the condition of the premises both prior to and after the search.
- 19 - The on-scene supervisor shall insure any damage to property incurred during service of the search warrant is repaired or secured in compliance with the mandates set forth in General Order C-16.
- 20 - The on-scene supervisor shall insure that a copy of the search warrant and handwritten inventory is given to the subject of the search if that person is present. If no one is present during the search, he/she shall insure that a copy of this information is left at the search location.
 - (a) The case officer shall insure the search warrant, affidavit and return of service are completed and processed back to the designated court within the time frames mandated by the Penal Code.
- 21- At the conclusion of the service of the search warrant, the case officer is responsible for insuring that the videotape/photographs of the event have been marked with the appropriate case number and placed in the property room, if they are to be utilized as evidence. Otherwise, the videotape/photographs shall

*Highlighted text is new.

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be stored with the case file in Special Enforcement Unit, Detective Division, or Traffic Division for at least one year.

References: Detective Bureau Procedural Manual
Special Enforcement Unit Procedural Manual
General Order C-16
Training and Information Bulletin No. 124

II. No change from General Order

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Lexipol	G.O.	Title
206	R-37	Retiree Concealed Firearms
401	B-4	Racial or Bias-Based Profiling
414	A-18	Use of Narcan (Naloxone)
508	A-2	Crossing Guard
611	D-1	Licensed Liquor Establishments, Conduct of
706	V-11	Rescue Vehicle
802	P-65, P-66, P-67	Property and Evidence
810	P-33	Computer Voice Stress Examinations
811	P-10	Burial Permits – Emergency
903	T-2	Transportation of Prisoners
1002	P-15	Special and Temporary Duty Assignments, Application and Selection Procedures
1037	C-46	Attendance - Conferences and Meetings

Retiree Concealed Firearms

206.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the issuance, denial, suspension or revocation of Berkeley Police Department identification cards under the Law Enforcement Officers' Safety Act (LEOSA) and California law (18 USC § 926C; Penal Code § 25455).

206.2 POLICY

It is the policy of the Berkeley Police Department to provide an identification card to qualified former or retired officers as provided in this policy.

206.3 LEOSA

The Chief of Police may issue an identification card for LEOSA purposes to any qualified former officer of this department who (18 USC § 926C(c)):

- (a) Separated from service in good standing from this department as an officer.
- (b) Before such separation, had regular employment as a law enforcement officer for an aggregate of 10 years or more or, if employed as a law enforcement officer for less than 10 years, separated from service after completing any applicable probationary period due to a service-connected disability as determined by this department.
- (c) Has not been disqualified for reasons related to mental health.
- (d) Has not entered into an agreement with this department where the officer acknowledges that he/she is not qualified to receive a firearm qualification certificate for reasons related to mental health.
- (e) Is not prohibited by federal law from receiving or possessing a firearm.

206.3.1 LEOSA IDENTIFICATION CARD FORMAT

The LEOSA identification card should contain a photograph of the former officer and identify him/her as having been employed as an officer.

If the Berkeley Police Department qualifies the former officer, the LEOSA identification card or separate certification should indicate the date the former officer was tested or otherwise found by the Department to meet the active duty standards for qualification to carry a firearm.

206.3.2 LEOSA AUTHORIZATION

Any qualified former law enforcement officer, including a former officer of this department, may carry a concealed firearm under 18 USC § 926C when he/she is:

- (a) In possession of photographic identification that identifies him/her as having been employed as a law enforcement officer, and one of the following:
 1. An indication from the person's former law enforcement agency that he/she has, within the past year, been tested or otherwise found by the law enforcement agency

to meet agency-established active duty standards for qualification in firearms training to carry a firearm of the same type as the concealed firearm.

2. A certification, issued by either the state in which the person resides or by a certified firearms instructor who is qualified to conduct a firearms qualification test for active duty law enforcement officers within that state, indicating that the person has, within the past year, been tested or otherwise found to meet the standards established by the state or, if not applicable, the standards of any agency in that state.
- (b) Not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.
 - (c) Not prohibited by federal law from receiving a firearm.
 - (d) Not in a location prohibited by California law or by a private person or entity on his/her property if such prohibition is permitted by California law.

206.4 CALIFORNIA IDENTIFICATION CARD ISSUANCE

Any full-time sworn officer of this department who was authorized to, and did, carry a concealed firearm during the course and scope of his/her employment shall be issued an identification card with a Carrying Concealed Weapon endorsement, "CCW Approved," upon honorable retirement (Penal Code § 25455).

- (a) For the purpose of this policy, honorably retired includes all peace officers who have qualified for, and accepted, a service or disability retirement. It shall not include any officer who retires in lieu of termination.
- (b) No CCW Approved endorsement shall be issued to any officer retiring because of a psychological disability (Penal Code § 26305).

206.4.1 CALIFORNIA IDENTIFICATION CARD FORMAT

The identification card issued to any qualified and honorably retired officer shall be 2 inches by 3 inches, and minimally contain (Penal Code § 25460):

- (a) A photograph of the retiree.
- (b) The retiree's name and date of birth.
- (c) The date of retirement.
- (d) The name and address of this department.
- (e) A stamped CCW Approved endorsement along with the date by which the endorsement must be renewed (not more than one year). If a CCW endorsement has been denied or revoked, the identification card shall be stamped "No CCW Privilege."

206.4.2 QUALIFIED RETIREES FROM INCORPORATED JURISDICTION

The Berkeley Police Department shall provide an identification card with a CCW Approved endorsement to honorably retired peace officers from any jurisdiction that this department now serves under the following conditions (Penal Code § 25905):

- (a) The retiree's previous agency is no longer providing law enforcement services or the relevant government body is dissolved. This department is in possession of the retiree's complete personnel record or can verify the retiree's honorably retired status.
- (b) The retiree is in compliance with all of the requirements of this department for the issuance

of a CCW Approved endorsement.

206.4.3 QUALIFIED RETIRED RESERVES

Qualified retired reserve officers who meet the department requirements shall be provided an identification card with a CCW Approved endorsement (Penal Code § 26300).

206.5 FORMER OFFICER RESPONSIBILITIES

A former officer with a card issued under this policy shall immediately notify the Berkeley Police Department Communication Center of his/her arrest or conviction in any jurisdiction, or that he/she is the subject of a court order, and advise that they have been issued a card with a CCW endorsement. The Communication Center employee receiving the information shall notify the Professional Standards Division captain or lieutenant for follow up. The Communication Center employee is responsible for ensuring that the message is received, whether it is verbally communicated or in writing.

206.4.2 RESPONSIBILITIES UNDER LEOSA

In order to obtain or retain a LEOSA identification card, the former officer shall:

- (a) Sign a waiver of liability of the Department for all acts taken related to carrying a concealed firearm, acknowledging both his/her personal responsibility as a private person for all acts taken when carrying a concealed firearm as permitted by LEOSA and also that these acts were not taken as an employee or former employee of the Department.
- (b) Remain subject to all applicable department policies and federal, state and local laws.
- (c) Demonstrate good judgment and character commensurate with carrying a loaded and concealed firearm.
- (d) Successfully pass an annual criminal history background check indicating that he/she is not prohibited by law from receiving or possessing a firearm.

206.4.3 MAINTAINING A CALIFORNIA IDENTIFICATION CARD CCW ENDORSEMENT

In order to maintain a CCW Approved endorsement on an identification card issued under California law, the retired officer shall (Penal Code § 26305):

- (a) Qualify annually with the authorized firearm at a course approved by this department at the retired officer's expense.
- (b) Remain subject to all applicable department policies and federal, state and local laws.
- (c) Not engage in conduct that compromises public safety.
- (d) Be permitted by law to receive or possess a firearm - Determined by absence of Department of Justice Denial or criminal history background check.

206.6 DENIAL, SUSPENSION OR REVOCATION OF A LEOSA IDENTIFICATION CARD

A CCW endorsement under Penal Code § 25470 for any officer retired from this department may be denied or revoked only upon a showing of good cause. The CCW endorsement may be immediately and temporarily revoked by the Professional Standards Division Captain when the conduct of a retired peace officer compromises public safety.

206.7 DENIAL, SUSPENSION OR REVOCATION OF A CALIFORNIA CCW ENDORSEMENT CARD

A CCW endorsement under Penal Code § 25470 for any officer retired from this department may be denied or revoked only upon a showing of good cause. The CCW endorsement may be immediately and temporarily revoked by the Watch Commander when the conduct of a retired peace officer compromises public safety.

- (a) In the event that a CCW endorsement is initially denied, the retired officer shall have 15 days from the date of denial to request a formal hearing. The failure to submit a timely written request for a hearing shall be deemed a waiver of such right. The hearing, absent written agreement between the parties, shall be held no later than 120 days after the request is received.
- (b) In conjunction with temporary revocation of any CCW endorsement, the Department shall provide the affected retiree with written notice of a hearing by either personal service or first class mail, postage prepaid, return receipt requested to the retiree's last known address (Penal Code § 26315).
 1. The retiree shall have 15 days from the date of service to file a written request for a hearing.
 2. The hearing, absent written agreement between the parties, shall be held no later than 120 days after the request is received (Penal Code § 26315).
 3. The failure to submit a timely written request for a hearing shall be deemed a waiver of such right, and the temporary revocation will become permanent.
- (c) A hearing for the denial or revocation of any CCW endorsement shall be conducted before a hearing board composed of three members, one selected by the Department, one selected by the retiree or his/her employee organization and one selected jointly (Penal Code § 26320).
 1. The decision of such hearing board shall be binding on the Department and the retiree.
 2. Any retiree who waives the right to a hearing or whose CCW endorsement has been revoked at a hearing shall immediately surrender his/her identification card. The Department will then reissue a new identification card which shall be stamped "No CCW Privilege."
- (d) Members who have reason to suspect the conduct of a retiree has compromised public safety shall notify the Professional Standards Division as soon as practicable. The Professional Standards Division should promptly take appropriate steps to look into the matter and, if warranted, contact the retiree in person and advise him/her of the temporary suspension and hearing information listed below.
 1. Notification of the temporary suspension should also be promptly mailed to the retiree via first class mail, postage prepaid, return receipt requested (Penal Code § 26312).
 2. The Professional Standards Division should document the investigation, the actions taken and, if applicable, any notification made to the retiree. The memo should be forwarded to the Chief of Police.
 3. The personal and written notification should be as follows:

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- (a) The retiree's CCW endorsement is immediately and temporarily suspended.
 - (b) The retiree has 15 days to request a hearing to determine whether the temporary suspension should become permanent revocation.
 - (c) The retiree will forfeit his/her right to a hearing and the CCW endorsement will be permanently revoked if the retiree fails to respond to the notice of hearing within the 15-day period.
4. In the event that personal contact with the retiree cannot be reasonably achieved in a timely manner, the Professional Standards Division should attempt to make the above notice of temporary suspension through another law enforcement officer. For example, if a retiree was arrested or detained by a distant agency, the Professional Standards Division may request that a law enforcement officer from that agency act as the agent of the Department to deliver the written notification.

206.8 FIREARM QUALIFICATIONS

The Personnel and Training Sergeant may provide former officers from this department an opportunity to qualify. Written evidence of the qualification and the weapons used will be provided and will contain the date of the qualification. The Personnel and Training Sergeant will maintain a record of the qualifications and weapons used.

DRAFT

Fair and Impartial Policing

401.1 PURPOSE AND SCOPE

This policy is intended to reaffirm the commitment of the Berkeley Police Department to fair and impartial policing; to clarify the circumstances in which officers can consider race, ethnicity and other demographics; and to reinforce procedures that serve to assure the public that we are providing service and enforcing laws in an equitable way.

California Penal Code Section 13519.4(e) prohibits racial profiling by law enforcement officers. This Department policy explicitly prohibits racial profiling and other biased policing. This policy describes the limited circumstances in which members can consider race, ethnicity, national origin, gender, age, religion, sexual orientation/identity or socio-economic status in making law enforcement decisions.

401.1.1 DEFINITIONS

Definitions related to this policy include:

Biased based policing: Any police-initiated action that relies on the race, ethnicity or national origin rather than the behavior of an individual or information that leads the police to a particular individual who has been identified as being engaged in criminal activity.

401.2 POLICY

Investigative detentions, traffic stops, arrests, searches, and property seizures by officers will be based on a standard of reasonable suspicion or probable cause. Officers must be able to articulate specific facts and circumstances that support reasonable suspicion or probable cause.

Officers shall not consider race, ethnicity, national origin, gender, age, religion, sexual orientation/identity or socio-economic status in establishing either reasonable suspicion or probable cause, or when carrying out other law enforcement activities except when officers are:

- (a) seeking specific person(s) who have been described in part by any of the above listed characteristics, or
- (b) the person(s) are being sought for a specific law enforcement purpose.

Discrimination or harassment based on a trait or class described above is considered a "serious allegation" of misconduct (Police Regulations 200 and 201).

401.3 RESPONSIBILITY TO REPORT AND TAKE CORRECTIVE ACTION

Employees who become aware of another employee engaging in biased policing shall adhere to reporting procedures set forth in Police Regulation 200.

A supervisor or command officer who becomes aware of biased policing shall adhere to notification and administrative procedures set forth in Police Regulation 201 and Policy 1010.

All reports of biased policing shall be investigated in accordance with Policy 1010.

401.4 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Chief of Police or the authorized designee shall ensure that all data required by the Department of Justice (DOJ) regarding complaints of racial bias against officers is collected and reported annually to DOJ (Penal Code § 13012; Penal Code § 13020).

401.4.1 DEMOGRAPHIC DATA PROCEDURES

All sworn officers shall provide demographic statistical data for:

- (a) All vehicle detentions.
- (b) All pedestrian detentions up to five persons
- (c) Consensual contacts are not included under this directive.

Officers shall provide demographic statistical data when closing the related Computer Aided Dispatch (CAD) System event.

401.5 ADMINISTRATION

Each year, the Operations Division Commander shall review the efforts of the Department to prevent racial- or bias-based profiling and submit an overview, including public concerns and complaints, to the Chief of Police.

This report should not contain any identifying information regarding any specific complaint, member of the public or officers. It should be reviewed by the Chief of Police to identify any changes in training or operations that should be made to improve service.

Supervisors shall review the annual report and discuss the results with those they are assigned to supervise.

401.6 TRAINING

Training on racial- or bias-based profiling and review of this policy should be conducted as directed by the Personnel and Training Bureau.

- (a) All sworn members of this department will be scheduled to attend Peace Officer Standards and Training (POST)-approved training on the subject of racial- or bias-based profiling.
- (b) Pending participation in such POST-approved training and at all times, all members of this department are encouraged to familiarize themselves with and consider racial and cultural differences among members of this community.
- (c) Each sworn member of this department who received initial racial- or bias-based profiling training will thereafter be required to complete an approved refresher course every five years, or sooner if deemed necessary, in order to keep current with changing racial, identity and cultural trends (Penal Code § 13519.4(i)).

Use of Narcan (Naloxone)

414.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines and regulations governing the utilization of Narcan by Berkeley Police Department employees with the objective to reduce the number of fatal opiate overdoses and increase employee safety.

414.2 POLICY

It is the policy of the Berkeley Police Department that employees are required to be trained in the use and appropriate administration of Narcan.

414.3 STANDING ORDER

The Alameda County Emergency Medical Services Agency (EMSA) Medical Director has authorized employees who have received training in the application of Narcan to possess and administer Narcan. See attachment: BPD Narcan Signed Medical Standing Order .

414.4 DEFINITIONS

Naloxone Hydrochloride (Narcan): A prescription medication used for the treatment of a known or suspected opioid overdose; a narcotic antagonist which works by affecting opiate receptor sites within the brain.

Intranasal: Administered through the nose; the nasal cavity is covered by a thin mucosa, which is extremely vascular and provides a direct route into the blood stream of the subject. Therefore, when Narcan is administered, via spray into the subject's nose it can be quickly effective.

Opioid Overdose: An acute, life threatening medical condition caused by the excessive intake of opiates (e.g. heroin, morphine, fentanyl, tramadol, oxycodone, etc.). This serious medical condition causes the victim to suffer from an altered level of consciousness, pinpoint pupils, respiratory arrest, and can lead to death.

Employee: Any sworn or non-sworn member of the Berkeley Police Department who is likely to be in a location where narcotics are found, tested or stored.

414.5 NARCAN COORDINATOR

The First Aid/CPR Training Coordinator, or their designee, shall act as the Narcan Coordinator. The Narcan Coordinator's responsibilities include:

- (a) Maintaining records of issued Narcan kits
- (b) Maintaining a list of employees trained in Narcan administration
- (c) Obtaining new Narcan kits prior to their expiration
- (d) Coordinating new or continued Narcan training for employees

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Use of Narcan (Naloxone)

414.6 PROCEDURE

- (a) Only employees who have completed authorized training in the use and application of Narcan shall be assigned to carry and utilize Narcan.
- (b) The Watch Commander, or their designee, shall ensure there are an adequate number of trained employees on every shift who carry Narcan in the field. The Narcan Coordinator shall maintain a list of personnel authorized to carry Narcan in order to aid the Watch Commander in this task.
- (c) Sworn personnel assigned to the Operations Division shall be assigned long-term Narcan kits. The kits shall be maintained in accordance with the provisions of this policy. Other sworn personnel assigned or opting to carry Narcan, shall complete an Equipment Inventory Log, including the Narcan kit number, date and time the equipment is logged out and returned. The Narcan kit and all related equipment must be returned to the designated secure storage area at the end of each shift, unless permission is granted to specific employees for long-term use.
- (d) Employees who are trained in accordance with the Alameda County EMSA mandated training guidelines shall deploy with Narcan kits in the field. However, the officer shall retain the discretion to administer or not administer Narcan to persons experiencing or suspected of experiencing opioid-related overdoses. There is no legal or departmental obligation to administer Narcan.
- (e) Employees who administer Narcan are protected from civil and criminal liability if they "act with reasonable care" and "in good faith." This is accomplished by administering Narcan according to the established training protocol.
- (f) Narcan must be stored in a climate controlled area and in a location where access to the medication can be secured and controlled.
- (g) Each assigned employee shall conduct a pre-service inspection of the Narcan kit and confirm its condition. The employee shall inspect the secured safety case to ensure it is clean and not damaged or expired.
- (h) Assigned employees shall carry the Narcan kit in a location that can be easily accessed and utilized when needed but out of direct sunlight.

414.7 NARCAN ADMINISTRATION

- (a) Employees trained in the use of Narcan are authorized to use it without prior approval in cases where an opiate overdose is suspected.
- (b) When using Narcan employees should maintain universal precautions against blood borne pathogens.
- (c) Prior to administration of Narcan, employees must assess the victim for lack of breathing, pulse and unresponsiveness. Employees should conduct a brief visual survey for any obvious evidence of drug use or exposure.
- (d) If an employee determines a victim is suffering from opiate based over-dose, the employee shall request Emergency Medical Services (EMS) immediately prior to the administration of Narcan.

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Use of Narcan (Naloxone)

- (e) Narcan shall be administered by employees utilizing an intranasal method approved by the local EMS Director and in accordance with training guidelines.

414.8 DOCUMENTATION AND REPORTING

- (a) Any employee administering Narcan shall detail its use in the BPD Narcan Report .
- (b) The supervisor approving the report shall ensure it contains enough information to meet applicable state reporting requirements and that a copy of the report is routed to the EMSA for auditing purposes.

414.9 MAINTENANCE AND REPLACEMENT

- (a) The daily inspection of Narcan kits shall be the responsibility of the officers who are assigned the kit for field deployment. The maintenance and replacement of Narcan kits shall be the responsibility of the Narcan Coordinator or their designee. Used, lost, or damaged Narcan kits shall be reported to a supervisor and returned to the Narcan Coordinator for replacement.
- (b) Narcan can only be obtained by prescription and shall be ordered for the Berkeley Police Department on an as needed basis by the Berkeley Police Department's Narcan Coordinator or their designee.

414.10 TRAINING

Prior to being issued and/or administering Narcan, personnel must complete an Opioid Overdose Prevention Training conducted by a person authorized by the Department to serve as a trainer. The authorized trainer must be trained by Alameda County EMS to conduct Opioid Overdose Responder training. The training shall only be offered to Berkeley Police Department employees and shall be conducted every two years during departmental Continued Professional Training (CPT) sessions.

Adult Crossing Guard Program

508.1 PURPOSE AND SCOPE

The purpose of this policy is to establish policy and procedures for the operation of the Adult Crossing Guard program.

508.2 POLICY

Adult Crossing Guards shall perform authorized traffic control duties at assigned locations to assist elementary school age children in their safe passage across public roadways.

Berkeley Police Department employees will provide necessary support for any citizen serving as an authorized Adult Crossing Guard.

508.3 AUTHORITY AND GENERAL RESPONSIBILITIES

Adult Crossing Guards (hereafter referred to as "Guard") are non-sworn part-time employees of the City of Berkeley authorized by the Vehicle Code, Municipal Code and Chief of Police to perform traffic control duties at identified school-related locations.

- (a) Locations of assignment shall be identified by mutual determination between the Police Department and the Transportation Division of the Public Works Department, subsequent to a need indicated by a traffic engineering survey.

508.4 RESPONSIBILITIES

The responsibilities of a Guard include:

- (a) Exercise sound judgment in the careful direction of children in their passage across public roadways at identified crossing locations during designated times;
- (b) Cooperate with school officials in their effort to enforce school regulations relating to the crossing of public roadways by students; and, serve as a role model and educational resource for children in the area of pedestrian-traffic safety.
- (c) Perform other traffic safety duties as directed by the Adult Crossing Guard Coordinator.
- (d) Provide for the safe crossing of elementary school age children within marked crosswalks.

A Guard shall not be responsible for the safe passage of any other group, including adults or older children crossing the roadway with elementary school children.

A Guard should not perform traffic control duties beyond the scope of their assignment.

508.5 DUTIES

Guards are commonly expected to perform assigned duties twice a day, once in the morning and once in the afternoon, as scheduled by the Adult Crossing Guard Coordinator.

Guards shall not leave their posts during periods of assignment.

To facilitate safe passage across a roadway, Guards shall:

- (a) Advise children arriving at their control crosswalk to wait on the sidewalk until directed to cross.

Watch for breaks in vehicle traffic flow and use that interval to initiate traffic control action.

- (b) Look both ways before leaving the sidewalk, step from the curb into the crosswalk, and hold the "STOP" sign down at his/her side.
 1. Guards shall give motorists as much advance warning as is practical regarding their intended traffic control action to provide the opportunity for compliance.
 2. Guards shall wait for clear indication that approaching vehicles are slowing in compliance before taking further traffic control action.

Elevate the "STOP" sign, orient it to a position visible to approaching vehicle traffic, and advance to the center of the crosswalk.

1. Guards shall remain in this position until all children have safely crossed the roadway.

When all hazardous vehicle traffic has stopped, signal for waiting children to cross.

When all children have crossed the roadway, lower the "STOP" sign and return to the sidewalk.

Guards shall discourage children from running across the roadway or riding bicycles within a crosswalk.

Guards shall maintain a friendly, but not affectionate or inappropriate, demeanor towards children under their supervision.

- (a) Courteous social exchange must not distract a Guard from their public safety responsibilities set forth in this Order.

508.6 TRAFFIC VIOLATORS

- (a) The guards shall report all motorists who refuse to cooperate with them to the Adult Crossing Guard Coordinator.

508.7 SUSPICIOUS PEOPLE

- (a) Guards shall attempt to obtain a complete description of suspicious persons loitering near a school.

Guards shall not approach the suspicious person(s), but shall carefully note the reasons that aroused their suspicion as well as a description of the person and his/her vehicle.

If the circumstances warrant such action, the guard shall call the Berkeley Police Department and request the assistance of an officer.

508.8 ACCIDENTS AT CROSSINGS

- (a) If anyone is injured at a location protected by a Crossing Guard, the Guard shall notify the police at once.

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1. The Guard shall identify himself/herself as a Crossing Guard, give the location distinctly, and request the services of an officer, and ambulance, if necessary.
 - (b) Guards shall not attempt to move an injured person pending the arrival of the ambulance. Guards shall make certain that every reasonable precaution is taken to protect the injured person from moving traffic.
 - (c) Guards shall not administer first aid unless they are certified to do so. They shall use all reasonable means at their disposal to keep the injured person warm and comfortable.
 - (d) If an involved vehicle attempts to leave the scene prior to the arrival of the officer, if possible, the Guard shall write down the vehicle's description and license plate information.
 - (e) The Guard shall request all witnesses remain at the scene.
 - (f) The Guard should make a reasonable effort to obtain the names and phone numbers of witnesses who cannot remain at the scene.
 - (g) Guards shall not attempt to interview witnesses.

508.9 ABSENCE FROM DUTY

Crossing Guards shall notify the Adult Crossing Guard Coordinator as soon as possible if they are unable to report for work (e.g., sickness, emergency, etc.), and in any event no later than 1/2 hour before their duty time.

508.10 ADULT CROSSING GUARD COORDINATOR

Supervision of Adult Crossing Guards is provided by the Traffic Bureau Lieutenant, or his/her designee, and designated as the Adult Crossing Guard Coordinator.

508.11 ADULT CROSSING GUARD COORDINATOR RESPONSIBILITIES

The Adult Crossing Guard Coordinator is responsible for:

- (a) The recruitment, hiring, training, field supervision, and coordination of termination of Adult Crossing Guards
- (b) Establishing work assignment locations and duty hours
 1. If a Guard is unable to report for duty, the Adult Crossing Guard Coordinator will contact an alternate from an availability list.
 2. If no alternate Guard is available, the vacant post will not be staffed.
- (c) The investigation of allegations of substandard performance and/or misconduct by Adult Crossing Guards
 1. As "at will" part-time employees, Adult Crossing Guards are not subject to the complaint investigation and disciplinary process.
- (d) Preparation of daily sign in sheet
- (e) Submission of record of hours to the Payroll Clerk

508.12 RECRUITMENT AND SELECTION

The Adult Crossing Guard Coordinator shall facilitate the recruitment and selection of Adult Crossing Guards for the Police Department.

Selection criteria should include, but not be limited to:

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- (a) Exhibition of knowledge and experience that would demonstrate the capability for satisfactory job performance;
 - (b) Be of good personal character, supported by personal and/or professional references;
 - (c) Possess physical abilities (e.g., good vision, hearing and reflexes) required to safely and effectively perform expected duties; and,
 - (d) Exhibit dependability; be a person who can be relied upon for prompt and consistent attendance to the assignment, and have the ability to provide efficient service.

508.13 TRAFFIC SURVEY

When necessary, the Adult Crossing Guard Coordinator, in conjunction with the City Traffic Engineer, will conduct a traffic survey to determine the need for student crossing protection at the identified location(s) proximal to a local public school.

Conduct of Licensed Alcohol Establishments

611.1 PURPOSE AND SCOPE

The purpose of this Policy is to establish the policy and procedure covering the conduct of leased liquor establishments.

611.2 POLICY

It shall be the policy of the Department to monitor the issuance of liquor licenses and forward investigative reports of violations and/or incidents which occur in alcohol licensed establishments to the Department of Alcoholic Beverage Control (ABC) for follow up.

611.3 DEFINITION

For the purpose of this Policy, an underage minor refers to an individual who is under the age of 21. An alcohol-licensed establishment is any business that is authorized by the Department of Alcoholic Beverage Control to sell alcoholic beverages. The Department of Alcoholic Beverage Control has the exclusive power, in accordance with laws enacted, to license and regulate the manufacture, importation and sale of alcoholic beverages in this State. It also has the power for good cause to deny, suspend or revoke any specific alcoholic beverage license.

611.4 PROCEDURES

Records Management will be responsible for routing copies of all reports involving liquor license violations to the ABC.

An officer shall complete a written report concerning any of the following situations involving an alcohol-licensed establishment:

- (a) His/her witnessing the sale or service of an alcoholic beverage to any obviously intoxicated person.
- (b) His/her witnessing, or the obtaining of information through investigation, observations regarding the sale or service of an alcoholic beverage to a person under the age of 21.
- (c) The arrest of any person for any crime inside or adjacent to the establishment.
- (d) The knowledge of a legally actionable or undesirable circumstance or condition inside or adjacent to the establishment provided there is a nexus between the circumstance and the establishment.

If the incident involved (a) or (b) above, the officer shall take the following action:

1. Seize the alcoholic beverage sold or served and, if it can be identified, seize the container from which it was poured.
2. Identify the person who furnished the alcoholic beverage. If the incident was witnessed by

the officer, a citation should be issued to this individual for violations of the applicable Business and Professions Code (25658(a) B&P).

3. In the case of the service or sale of an alcoholic beverage to someone under the age of 21, identify the individual who was furnished the alcoholic beverage. Where appropriate, a citation should be issued to the underage minor for possession of an alcoholic beverage or consumption of that beverage (25662(a) B&P, 25658(b) B&P).
4. During an ABC operation, in order to ensure that the particular case can be successfully prosecuted, the officer will take the underage minor back to the location where he or she purchased the alcoholic beverage for a visual confrontation between the seller and the underage minor to show the seller the person to whom he or she sold the alcoholic beverage. The officer should photograph the underage minor, the employee who furnished the alcohol, and the alcoholic beverage together and forward it to the Department of Alcoholic Beverage Control along with the police report.
5. In the situation where the owner of an alcohol licensed establishment claims that the individual under 21 years of age utilized false identification, the officer should make the appropriate search of the individual to ascertain if the underage minor is in possession of false identification. If this identification is located, it should be seized and booked into evidence under the case. If the identification is fraudulent, a citation should be issued to the individual for a violation of the Business and Professions Code (25661 B&P).

If a case number has been assigned as a direct result of an incident, the report should be prepared under the same case number. If no case number has been assigned, a case shall be originated covering all relevant circumstances.

Records Management shall forward all police reports involving an alcohol-licensed establishment ~~shall ensure the reports are properly forwarded to~~ to the Oakland Office of the Department of Alcoholic Beverage Control. The reports should also be forwarded to the City of Berkeley Code Investigations Unit, Planning Department, and the Office of Economic Development.

The question of subsequent action, if any, to be taken against the alcohol licensee or his or her employee, should be resolved through contact by a member of the Community Services Bureau with the appropriate licensing agencies and the local office of the District Attorney.

611.5 RETAIL LIQUOR LICENSES

The Zoning Adjustments Board (ZAB) will handle all requests for retail alcohol licenses except for one-day liquor licenses (see one-day liquor license section). Upon receipt of an application for a liquor license, the ZAB will notify the Chief of Police for appropriate comments. The Community Services Bureau will coordinate the processing of the application and investigation to determine if there are concerns that the Police Department should address.

CSB personnel will notify the respective supervisors of the Operations Division for input on the proposed new alcohol establishment. CSB will prepare a response for the Chief's signature to be submitted for review by the Zoning Adjustment Board.

611.6 ONE-DAY LIQUOR LICENSES

Upon receipt of a request for a one-day liquor license, the Detective Bureau Lieutenant or designee receiving it will explain to the applicant that:

- (a) The Department of Alcoholic Beverage Control (ABC) will issue the license based on recommendations from the Berkeley Police Department.
- (b) The Detective Bureau Lieutenant will conduct background and file checks on the organization, person(s) in charge, and proposed location of the event.
- (c) Successful applicants will be charged a \$25 administrative fee, which is in addition to any fees charged by the ABC.
- (d) Successful applicants will be provided with a letter of recommendation to the ABC to issue a one-day license.
- (e) Applications submitted for one-day liquor licenses take approximately ten (10) business days to issue the letter of recommendation.

Personnel working at the Front Counter of Records Management~~the Records Division~~ will have forms available so that any employee of the Berkeley Police Department can record all of the required information and forward it to the Detective Bureau Lieutenant without any unnecessary delay.

The Detective Bureau Lieutenant will conduct file checks on the person(s), organization(s), and proposed location(s) to determine suitability for issuance of a one-day permit.

The Detective Bureau Lieutenant will notify the respective supervisors of the Community Services Bureau and the Operations Division to allow for input from all of relevant sources.

The Detective Bureau Lieutenant will make the final decision on approval of the recommendation and if it is approved, the application will then be referred to the Operations Division Assistant for typing.

The completed letter will then be routed to the Chief of Police for signing and returned to the Operations Division Assistant.

The Operations Division Assistant will place the letter in the Will Call box in Records Management~~the Records Division~~ and route a copy to the Detective Bureau Lieutenant.

When the applicant comes in for the letter, Records Management~~the Records Division~~ Front Counter personnel will provide the letter to the applicant and collect the administrative fee in accordance with this procedure. A copy of the receipt will be forwarded to the Detective Bureau Lieutenant.

Emergency Response Vehicle

Commented [SSM1]: Entire content is BPD's V-11, which was approved by City Council in June 2018.

706.1 PURPOSE AND SCOPE

The purpose of this policy is to provide direction for the usage, training, and storage of the Berkeley Police Department Emergency Response Vehicle.

706.2 USE OF EMERGENCY RESPONSE VEHICLE

The Emergency Response Vehicle shall be used as an armored vehicle resource, with the goal of safely resolving incidents where there exists an objective risk to the safety of civilians and/or officers from a person or persons who may be considered armed and dangerous.

The use of the Emergency Response Vehicle will be authorized by the Special Response Team (SRT) Commander or Team Leader unless exigent circumstances exist. If the Emergency Response Vehicle is needed during an in-progress emergency, use of the vehicle may be authorized by the Watch Commander, or, in their absence, a Patrol Sergeant. The Emergency Response Vehicle will only be utilized with supervisory approval, for purposes including, but not limited to, incidents involving potentially armed subjects, Special Response Team callouts, high-risk search warrants, officer or civilian rescues, or authorized training.

The Emergency Response Vehicle shall not be deployed during non-violent demonstrations, including for crowd control and crowd management, absent specific articulable objective facts demonstrating a risk of injury or death to police officers and/or the public. The Emergency Response Vehicle may be staged at pre-designated locations, away from protest sites, to allow for timely response. The vehicle may be used in cases of a declared unlawful assembly, and after a lawful dispersal order, where persons are engaged in criminal behavior that presents an objective risk of injury or death.

The Emergency Response Vehicle may be used for static displays at community events, for engagement and educational purposes.

The SRT Commander will maintain a vehicle usage log which may be provided to the City Council on an annual basis, or as requested.

706.3 EMERGENCY RESPONSE VEHICLE OPERATION TRAINING

Periodic briefings and training will be conducted on the operation and deployment of the Emergency Response Vehicle. All Special Response Team members will receive formal training prior to deployment of the Emergency Response Vehicle. A valid class "C" California driver's license is required to drive the Emergency Response Vehicle.

Supervisors shall submit Training Time Credit Record forms to document that staff members have received training.

706.4 EMERGENCY RESPONSE VEHICLE DEPLOYMENT CONSIDERATIONS

Staff has the discretion to deploy the Emergency Response Vehicle in those circumstances where there is an objective risk of injury or death to civilians and/or officers, and use of the vehicle may reduce or mitigate said risks by facilitating safe police management of the critical situation and rescue of injured or endangered persons.

When considering deployment of the Emergency Response Vehicle, the authorizing Commander or Supervisor should:

- (a) Assess the situation and based on the objective facts, determine that the discretionary use of the Emergency Response Vehicle may contribute to the safe resolution of a critical incident where there is a risk of injury or death to civilians or officers.
- (b) Whenever practical, create an operational plan for deployment of the vehicle consistent with this policy, current law and the department's Use of Force Policy.
- (c) The vehicle may be used to locate and contain a threat by providing cover for officers, facilitating a rescue of an injured or endangered persons, or as a tactical resource to allow officers to take into custody a person who presents an objective risk of injury or death to civilians or officers.
- (d) When selecting a rescue team, the supervisor should consider experienced personnel, such as current or former Special Response Team Members, Hostage Negotiators and officers who have received Crisis Intervention Training (CIT). In addition, the rescue team should include a Medic or TEMS officer (Tactical Emergency Medical Support), rescue carriers, cover officers and officers equipped with less lethal force equipment. Fire and ambulance personnel should be ready to accept injured persons at the end point of the rescue.

706.5 EMERGENCY AND NON-EMERGENCY REQUEST OF THE RESPONSE VEHICLE BY OUTSIDE AGENCIES

In the event of an emergency request for the Emergency Response Vehicle, the Watch Commander, or in his/her absence, a patrol sergeant, may approve the request for the Emergency Response Vehicle to assist outside agencies for emergency purposes. If time allows, at least two on-duty Special Response Team officers shall deploy with the Emergency Response Vehicle to assist outside agency requests but one is acceptable. This may include additional officers who have received training in advanced first aid. The request for BPD response with the Emergency Response Vehicle by outside agencies, for purposes other than emergencies, shall be authorized by the Special Response Team Commander or Operations Division Captain.

The Emergency Response Vehicle will be deployed in accordance with Berkeley Police Department policies. All Berkeley Police Department personnel will follow Berkeley Police Department policies when assisting outside agencies. The Emergency Response Vehicle will remain in the possession and control of Berkeley Police Department personnel and will not be loaned to other agencies.

706.6 EMERGENCY RESPONSE VEHICLE STORAGE

The Emergency Response Vehicle will be stored primarily at the Berkeley Police Department.

706.7 EMERGENCY RESPONSE VEHICLE MAINTENANCE

Maintenance of the Emergency Response Vehicle is the responsibility of the Department Fleet Manager. The Fleet Manager should coordinate with the Logistics Team Leader when scheduling vehicle maintenance or repairs.

Officers from the Special Response Team will routinely check the Emergency Response Vehicle and its equipment, including but not limited to, ensuring the battery is charged, the trickle charger is attached, the engine will turn over, and that the vehicle is in general working order. When reasonable, the vehicle should be fueled after each use. The City of Berkeley Corporation Yard will perform repairs on the vehicle and keep a preventative maintenance schedule.

Property and Evidence

802.1 PURPOSE

~~General Order P-65~~ This policy describes the Departmental guidelines for the care and handling of property and evidence.

802.2 POLICY

Berkeley Police Department employees shall exercise the utmost care with property and evidence in their custody and control.

The professional management of evidence and property in the custody of the Berkeley Police Department is essential to the successful prosecution of criminal cases, a decreased level of civil liability on the part of the Department and its members, the maintenance of a high level of public trust, and the delivery of quality service to the community.

802.3 HOURS OF OPERATION

The business hours of the Property Room are Monday through Friday, from 0800 to 1200 hours and from 1400 – 1700 hours, excluding holidays. Property releases are made between 1430 and 1630 hrs. Should the need exist, additional appointments for the release of property may be made with the Property Officer.

802.4 PROPERTY OFFICER AND PROPERTY CLERK ASSIGNMENTS

The Property Officer shall be a Community Service Officer Supervisor assigned to the Property Room. The Property Clerk shall be a Community Service Officer assigned to the Property Room and shall support Property Room operations. The Property Officer and Property Clerk shall maintain files listing the current location and status of all property in the custody of this Department including drugs, weapons, and drug property. The Property Officer and the Property Clerk shall be responsible for the safe, secure and orderly operation of the Property Unit and shall comply with this ~~general order policy~~ and all laws relating to the care and disposition of property. A Police Aide may assist in the Property Room. At all times the Aide must be under the supervision of the Property Officer or the Property Clerk.

802.5 PROPERTY ROOM AREAS

The Property Room areas consist of the Property Room, the Bag & Tag Room, the Bulk Storage Room, the Drug Storage Container, and any other area designated by the Chief of Police as a property storage area.

802.6 LONG-TERM STORAGE LOCATIONS

The long-term storage of all evidence shall be in the Property Room, the Drug Storage Room, the Bulk Storage Room, the Drug Storage Container, the Hazmat Storage Container, and/or any other areas as approved by the Support Services Division Captain.

802.7 TEMPORARY STORAGE LOCATIONS

The Property Room is equipped with six temporary storage units, into which employees shall book evidence or other property.

The individual lockers located in the Bag & Tag Room are used for the temporary storage of property and evidence. Should all lockers be in use, property shall be placed in the Bulk Storage Room.

The Drug Drop Safe, located in the Bag & Tag Room, is used solely for the temporary storage of narcotic or drug evidence.

The High Value Drop Safe, located in the Bag & Tag Room, is used for the temporary storage of money, handguns, jewelry, or items of high value or a sensitive nature.

The refrigerator, located in the Bag & Tag Room, is used for the temporary storage of evidence requiring refrigeration or freezing, and for the temporary storage of urine samples.

The Bulk Storage Room is used for the storage of items of evidence or property that are too large for the temporary lockers (such as bicycles), or when all individual lockers are in use.

The Drug Storage Container (in the south parking lot) is used for the temporary storage of drugs (e.g. marijuana plants), which are too large or otherwise unsuitable for the Drug Drop Safe.

The Hazmat Storage Container (located on Second St.) is used for the temporary and long term storage of flammable and toxic items such as lighters and spray paint.

802.8 SECURITY OF THE PROPERTY STORAGE AREAS

Property storage areas shall be secured at all times.

One set of Property Room keys (including key fob) shall be issued to each of the following employees:

- (a) The Property Officer;
- (b) The Property Clerk;
- (c) The Support Services Bureau Lieutenant;
- (d) The Support Services Division Captain;

A fifth set of keys and a key fob shall be located in the Patrol Lieutenants Office in a combination lock box. The Property Officer, Property Clerk, Support Services Captain and Support Services Lieutenant shall have the combination to this lock box. In the event entry must be made into the Property Room and the above four listed people are not available to respond to the PSB, the Support Services Captain or Lieutenant will be contacted and he/she they will provide the combination to a command officer or their designee. The combination to this box will only be given out if the above four listed people are not available to respond to the PSB. The Support Services Division Captain shall be responsible for changing the combination to the lock box every time it is used.

802.9 ACCESS TO LONG-TERM STORAGE LOCATIONS

Except as described in this ~~policy~~ ~~General Order~~, no unauthorized personnel are to be admitted to the interior of any Property Room.

In the event that an employee, other than Property Room personnel, needs to enter a long-term property storage area, the employee shall be escorted at all times within the property storage area by the Property Officer, Property Clerk, or the individual key holder (~~listed in paragraph 10 above~~) who provided access to the employee.

In the event that an employee, other than Property Room personnel, needs to enter a drug storage area, the employee shall be escorted at all times within the drug storage area by the Property Officer, Property Clerk, or the individual code holder (~~listed in paragraph 12 above~~) who provided access to the employee.

Keys to the Hazmat Storage Container are located in the Sergeant's Office.

802.10 EMERGENCY AFTER-HOURS ACCESS TO LONG-TERM STORAGE LOCATIONS

If it is necessary for an employee to enter the any of the secured storage areas, and all Property Room personnel are off duty, the employee making entry shall send an email detailing the date, time, reason for entry, and identity of the individuals making entry to the Support Services Division Captain, Support Services Bureau Lieutenant, and the Property Officer and receive a reply before entry. If a response isn't received in a reasonable amount of time then a call should be placed to the Captain. The Property Officer shall maintain a record of these notifications. The Property Officer shall maintain a manual sign-in log for individuals entering the Property Room, Drug Storage Container, or Drug Storage Room.

802.11 PROPERTY TYPES

Property which comes into the possession of the Department is usually one of five basic types:

- (a) Evidence: Property, which is or may be related to a crime, and which, by its nature, may implicate or clear a person of a criminal charge.
- (b) Recovered Property: Property which was illegally taken from its owner and subsequently recovered by this Department. For purposes of disposition, recovered property shall be treated as evidence.
- (c) Found Property: Non-evidentiary property which is determined to be lost or abandoned and is not known or suspected to be connected with any criminal offense.
- (d) Property Held for Safekeeping*: Non-evidentiary property that is placed in the custody of this agency for temporary protection on behalf of the owner and for a period not to exceed sixty (60) days. (Civil Code section 2080.10) This shall include:
 1. Marijuana (legally possessed) which cannot be accepted into the Berkeley Jail as property but which the owner may obtain later by visiting the Property Room during normal business hours.
 2. Prisoner Property which is too large to be stored in the Berkeley Jail's storage area, but which the owner may obtain later by visiting the Property Room during normal business hours.

* Property, which is not claimed for 60 days will be discarded or donated. (Civil Code sections 2080, et seq.)

802.12 PROPERTY BOOKING PROCEDURES

Employees coming into possession of property during the course of their duties shall exercise proper care in the handling of the property, and take all necessary steps to ensure the property does not become lost or unnecessarily damaged.

A numbered police report shall be made for all items of property or evidence coming into the possession of any employee of the Police Department. This report shall detail the circumstances by which the property came into the Department's possession and describe each item of property obtained. The Property Officer and Property Clerk shall maintain files listing the current location and status of all items of property in the custody of this Department.

One AEGIS Property entry shall be made for each booked item.

Employees shall ensure that the case number written on the Property Label corresponds with the correct case report.

Items booked for safekeeping and found property shall be segregated from items of criminal evidence in order to facilitate the timely disposition of such property.

All property coming into the custody of Department personnel during the course of their duties shall be placed in one of the designated Property Room temporary storage locations prior to the employee going off duty:

- (a) Officers may deliver processed and bagged items directly to Property Room personnel during regular Property Room hours.
- (b) The temporary storage of any item of property or evidence in desks, lockers, mailboxes or other Departmental facilities, not specifically authorized for that purpose is strictly prohibited.
- (c) If property is to be used as part of an on-going investigation, the property shall be booked in and later checked out of the property room.
- (d) Prisoner property shall not be left in the Bag & Tag Room lockers or Bulk Storage Room without an attached Property Label.

Prior to booking any item of evidence or property into an appropriate Temporary Storage Location, employees shall first:

- (a) Complete an AEGIS entry for the item, and
- (b) Attach a Property Label to the item.

In the event of a depletion of labels, employees shall write all of the pertinent information on a piece of paper and attach it to the property.

Items are to be placed in an available Bag & Tag Room locker and the locker secured. One locker has been fitted with a mailbox type slot (locker #9). Small items should be stored in this modified locker. If the item is too large for a locker, such as a bicycle, the Bulk Storage Room may be used. The special procedures for narcotics and high-value items are described elsewhere in this Order.

Lockers are secured by closing the locker door.

- (a) The Bulk Storage Room can be accessed with the Departmental key.

802.13 LIQUID, BEVERAGE, AND PERISHABLES PROCEDURES

Containers of liquids or beverages are not to be stored except in situations where the preservation of the entire liquid in its original state is critical to the prosecution. In most instances, a sample may be placed in a small glass vial, and the vial attached to the original container.

Perishable items are not to be deposited for storage in the Property Room. These items may be photographed if appropriate and the item(s) returned to the owner or destroyed.

802.14 SHARP OR BLADED ITEMS PROCEDURES

When packaging sharp or bladed items such as knives, ice picks, etc., employees shall ensure that the sharp point of the item, or the blade of the item, is neither protruding nor exposed, by wrapping the blade with masking tape, or otherwise securely covering the point and/or blade of the item.

802.15 CURRENCY, HIGH VALUE, AND FIREARMS PROCEDURES

Items placed in the High Value Drop Safe shall have an attached Property Label.

- (a) All monies placed in the High Value Drop Safe shall be counted by the booking officer and witnessed by another employee (if the amount is \$50.00 or more). To prevent fraud, all monies should be inspected by the booking officer, and if available, a counterfeit detection pen should be utilized. Monies are to be placed into self-sealing Berkeley Police Department Money Bags.

All information requested on the Money Bag is to be filled out using a non-smearing pen, such as a "Sharpie" marker. All bags will bear a unique control number, and this number should be listed in the corresponding police report.

(b) Cash count sheets shall be completed and included with all currency.

All money, handguns (including pellet guns), jewelry, or high value items shall be properly labeled and should be placed into the High Value Drop Safe located in the Bag & Tag Room. All items shall be logged in on the clipboard adjacent to the High Value Drop Safe. Large items that will not fit in the safe, should be placed in a locker and a note should be made on the clipboard log indicating the item's location

When booking currency, ensure that the correct amount of the currency is entered in the AEGIS property entry.

(a) All currency shall be separated from other property in a case (e.g. Book currency separately from the wallet in which it was found.)

(b) A currency denomination breakdown must be included in the description field in the system.

(c) When booking counterfeit or foreign currency, enter "0.00" in the "value" field of the AEGIS entry.

All firearms shall be unloaded. All ammunition shall be booked separately from the firearm.

Each firearm booked into the Property Room shall be entered into the Department of Justice Automated Firearm System and a copy of the AFS entry form submitted by the assigned officer shall be attached to the firearm prior to booking into the Property Room.

All shotguns and rifles shall be booked into the Property Room. These weapons shall be placed in the large pass through lockers in the Bag & Tag Room. If the weapon is too large to fit in these lockers or if these lockers are already in use, the weapon shall be properly tagged and placed in the Spare Shotgun Locker in the Equipment Room (Public Safety Building Room 1145). Whenever an officer places a weapon in the Spare Shotgun Locker, the officer shall send an email to the Property Officer and the Property Clerk to notify them of the weapon's location.

A safe belonging to the Finance Department of the City of Berkeley will be housed in the Berkeley Police Department Property Room. This safe will contain payroll documents, cash, and vouchers that can be used in the case of an emergency. Property Room personnel will escort Finance staff in and out of the Property Room if access is needed. Keys and combinations for this safe will remain with the Finance Department.

802.16 URINE AND BLOOD SAMPLE PROCEDURES

Urine or Blood samples will be stored in the Berkeley Police Department Property Room as follows:

(a) Urine sample jars and envelopes will still be kept in the jail.

(b) Blood samples will be obtained from a phlebotomist at the jail or from medical staff at an appropriate medical facility.

(c) An AEGIS entry will be created.

(d) A Property Label shall be attached to the sample envelope.

(e) Sealed urine sample envelopes and/or blood sample envelopes should be placed in the refrigerator in the Bag & Tag Room.

(f) A biohazard label should be attached.

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- (g) The Property Officer will remove any sample envelopes and store them in the Property Room. The Property Officer will update the AEGIS system and print out a Property Receipt and Property Tag.
 - (h) A courier, from the currently contracted lab, will obtain any urine/blood samples from the Property Officer and transport for testing.

802.17 BICYCLE AND VEHICLE PROCEDURES

Bicycles, tricycles, or parts thereof shall be deposited in the Bulk Storage Room with an attached Property Label.

None of the Property Room storage areas are to be used for the storage of vehicles (except bicycles), discarded office furniture or equipment, or papers marked for destruction.

- (a) Vehicles, including mopeds, shall be towed to a local garage in accordance with existing tow procedures.

802.18 EXPLOSIVES AND FLAMMABLE OR TOXIC SUBSTANCES

No flammable, explosive or toxic materials shall be stored in the Property Room, they must be booked into the Hazmat Storage Container.

Under no circumstances shall highly explosive, flammable, or toxic substances be stored in any portion of the Public Safety Building, or any Property Storage Area.

- (a) Explosive materials shall be moved, stored, and destroyed only under the direct supervision of a Berkeley Police Department Explosive Ordnance Technician.

Flammable materials shall be referred to the Berkeley Fire Department Fire Prevention Bureau for storage and disposal. During non-business hours, the On-Duty Fire Chief shall be contacted for storage and disposal assistance and direction.

Toxic or hazardous substances shall be moved and stored ONLY under the direct supervision of the City of Berkeley Toxics Management Division or Berkeley Fire Department Hazardous Materials Response Team.

802.19 NARCOTICS EVIDENCE PROCEDURES

With certain stated exceptions, only narcotics and drugs will be accepted into the narcotic evidence system. Narcotics related paraphernalia shall be introduced into the property and evidence system as outlined previously (exceptions might include paraphernalia or syringes, properly packaged, which contain usable quantities of narcotics.)

A numbered report shall exist or be made for all items of narcotic or drug evidence coming into the possession of any employee of the Police Department. The Property Officer shall, through the AEGIS Computer System, maintain a record listing the location, disposition, or destruction of narcotic and drug evidence in the custody of this Department. All narcotics evidence shall be inspected by the Property Officer or Property Clerk to guard against tampering.

802.20 NARCOTIC AND DRUG DEPOSITING PROCEDURES

Employees taking possession of drug evidence and found drugs shall adhere to the following procedures:

- (a) After its initial collection, employees shall, without delay, deposit any narcotics or drugs into the Drugs Drop Safe in the Bag & Tag Room or the Drug Storage Container.

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- (b) Employees coming into possession of narcotics or drugs during the course of their duties shall exercise proper care in the handling of these items, and take all reasonable steps to ensure that these items do not become lost or unnecessarily damaged.
 - (c) Employees shall use a Property/Evidence Envelope and properly complete the information on the envelope.
 - 1. Employees shall fully and accurately complete an AEGIS entry.
 - 2. In all cases where narcotic and/or drug information is entered into AEGIS, the employee shall list the exact weight and/or exact quantity as accurately as could be reasonably expected.

The following packaging procedure shall be followed by employees who take possession of narcotic or drug evidence, and found drugs:

- (a) Weigh the quantity of drugs on the scale provided. If this is inappropriate, such as a seizure of pills, tablets, or individual dosage units such as LSD, count the exact quantity of pills, tablets, or individual dosage units that are collected. If the size of the seizure (i.e. 50 Marijuana Plants) makes it inappropriate to weigh, list the number of plants.
- (b) Choose an appropriate size clear evidence pouch
 - 1. For marijuana - use a plain paper bag or envelope
- (c) Place the drugs and a business card or note with the employee's name, badge number, and case number inside the clear evidence pouch (or plain paper bag/envelope for marijuana).
- (d) Heat seal the clear evidence pouch with the heat sealer provided.
 - 1. For marijuana – fold the paper bag or envelope
- (e) Choose an appropriate size Property/Evidence Envelope. If it is necessary to use one of the larger envelopes that are not pre-printed, attach one of the printed white adhesive Property Labels.
- (f) Fill out all the required information requested on the face of this envelope. Initiate the "Chain of Custody." If the drugs were seized from a suspect, write the suspect's name in the "Received from" box on the envelope or label. The employee writes his or her name in the "Name" box. Write the date and time in the appropriate boxes.
- (g) Place the clear evidence pouch (or, for marijuana, paper bag/envelope) inside the manila evidence envelope.
- (h) Close the manila evidence envelope flap and use the metal clasp to hold the flap down.
- (i) Apply a strip of red colored "evidence" tape to seal the manila evidence envelope flap. Be certain this action does not obscure any necessary information on the face of this envelope. Initial and date the evidence tape.
- (j) Deposit the Property/Evidence Envelope into the Drug Drop Safe.

The following procedures shall be used when the drug evidence, or found property, is too large to be placed in any Drug Drop Safe.

- (a) Use the same basic format, as previously listed, and modify as necessary. Make use of larger manila evidence envelopes and larger clear evidence pouches, as necessary. Should even these prove to be too small, standard "grocery" sized paper bags, found in the Property Room, should be used.

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- (b) A business card or note with the employee's name, badge number, and case number shall be included in each large container used.
 - (c) If the evidence envelope or grocery bag used does not have a pre-printed chain of custody box on it, attach one of the white printed adhesive chain of custody labels to it.
 - (d) Seal the opening of any paper bag with red colored "evidence" tape and staple or secure, as necessary. Initial and date the evidence tape.
 - (e) Place the item(s) in the Drug Storage Container

~~1. If the officer needs to access the Container after hours, the Property officer shall be contacted by following the directions in paragraph 17.~~

802.21 PROHIBITED ITEMS IN THE DRUG DROP SAFE

Only the actual drugs, perhaps with its original packaging, should be placed into the Drug Drop Safe. Any packaging included should not obscure the drugs from sight.

- (a) Needles, mirrors, razor blades, "kits," in general, and any other "non-drug" item or tool, shall not be placed in the Drug Drop Safe.
- (b) Smoking pipes and syringes should not be placed in the Drug Drop Safe unless they contain a usable quantity of drugs and it is impractical to separate them or were used in a crime or suspicious circumstance. An example of this would be a syringe suspected to being used in an assault with a deadly weapon case. In such cases, syringes should be packaged in plastic safety tubes provided.

802.22 SYRINGE MANAGEMENT

Except as described in (a) below, all syringes taken into possession shall be placed into the red colored "Sharps" collector to be destroyed. If the syringe is taken for evidentiary purposes alone, it is to be photographed along with the appropriate case number, then placed in the "Sharps" collector to be destroyed.

- (a) Syringe packaging for narcotics analysis: Should a loaded syringe be obtained the following guidelines shall be used. First, employees must take their time and exercise due caution in this task. If there is a plastic shield over the needle, employees should remember that this is not puncture-proof. The syringe and needle must be packaged in a puncture-proof container such as a metal/fiber mailing tube or hard plastic containers. Furthermore, the presence and manner of packaging a syringe *must* be described and written explicitly on the container in which the syringe is sent.
- (b) The Property Officer or Property Clerk will dispose of the syringes at the City of Berkeley Public Health Clinic located at 830 University Avenue.

802.23 PROCEDURES FOR PROCESSING BOOKED PROPERTY

The Property Officer or the Property Clerk shall check the Pass Through Lockers, High Value Safe, Bag & Tag Room refrigerator, and Bulk Storage Room each business day, retrieve the items from temporary storage, index them into AEGIS, barcode each package/bag/container, attach a Property Receipt, and store them in an appropriate area of the Property Room.

The Property Officer or the Property Clerk shall query AEGIS each business day to confirm that all property or evidence entered into AEGIS has been located and accounted for by the Property Officer or the Property Clerk. If the Property Officer or the Property Clerk locates a Computer Property System entry and cannot locate the actual evidence, or if they find a piece of evidence without a corresponding AEGIS entry, he/she shall take immediate action to resolve the inconsistency. Such action may include but is not limited to contacting the involved employee to

determine the circumstances of the incident, contacting the employee's supervisor for further assistance, or other action taken with the intent to rectify the situation, and provide feedback to the involved employee in order to avoid future mistakes.

The Property Officer or Property Clerk shall check the Drug Drop Safe each business day, retrieve the items from temporary storage, confirm and update the corresponding record in AEGIS, barcode each package, bag, container, or item, and store them in an appropriate area of the Property Room.

The Property Officer or Property Clerk shall query AEGIS each business day to confirm that all drug property or evidence entered into AEGIS has been located and accounted for by the Property Officer. If the Drug Property Officer locates a Computer Property System entry and cannot locate the actual evidence, he/she shall take action to resolve the inconsistency. If the Drug Property Officer finds a piece of drug property or evidence without a corresponding entry in AEGIS, the Property Officer shall take action to resolve the inconsistency. Such action may include but is not limited to: contacting the involved employee to determine the circumstances of the incident, contacting the employee's supervisor for further assistance, or other action taken with the intent to rectify the situation, and provide feedback to the involved employee in order to avoid future mistakes.

802.24 PROCESSING OF CURRENCY

Property Room personnel shall place all currency in the security safe in the Property Room. Only the Property Officer, Property Clerk and the Support Services Lieutenant shall have the combination to the security safe. The combination shall be changed immediately following the rotation of an individual from any of these assignments.

With the exception of currency that must be retained in its original state, currency in the Property Room should not be allowed to accumulate over \$5,000. The Property Officer shall periodically deposit currency in the Berkeley Police Department Property Room Fund, Asset Forfeiture Account, or BPD State Asset Forfeiture Account. The deposit shall be witnessed and verified by the Property Clerk or another departmental employee designated by the Support Services Lieutenant, and a receipt obtained. The Support Services Lieutenant and Captain shall be notified each time money is moved to a financial institution of the City's choosing.

All currency placed into the security safe shall be in sealed Berkeley Police Department Money Bags. Currency to be deposited shall remain sealed until removed from the security safe for deposit. The seals can then be broken only by the Property Officer and ~~the witness described in paragraph 63 above~~. The Property Officer and witness shall perform a concurrent count of each package to verify the contents and amount prior to deposit.

- (a) Any discrepancy between the amount on the property tag and the count prior to deposit shall be reported immediately to the Support Services Captain for follow-up investigation and resolution.
- (b) The Watch Commander or in his/her absence the Duty Command Officer shall also be notified. The Watch Commander or Duty Command Officer will notify the Chief of Police, the City Manager, the Director of Finance and the City Auditor.

802.25 WITHDRAWAL AND RETURN OF PROPERTY

When an investigation requires that an item be temporarily removed from the Property Room, the assigned employee shall contact the Property Officer or Property Clerk via email with a cc to their respective supervisor. The Property Officer or Property Clerk will check out the item to the employee and immediately update AEGIS records to indicate that the item(s) is in the temporary custody of the assigned employee. A chain of custody form shall be initiated by the Property Officer or Property Clerk, and attached to the item.

Property may be temporarily withdrawn from the Property Room for identification, laboratory examination, and court.

- (a) Property shall be withdrawn on the date it is actually needed for identification, examination, or court. In special situations, the Property Officer should be contacted and arrangements made for the property to be available during early-morning hours or weekends, etc. Immediately following the withdrawal of an item of property, the Property Officer will update the Automated Property System on the status change of the item(s) including initiating a "Chain of Custody" record in the Automated Property System. Evidence leaving the Property Room shall have a Chain of Custody form attached.

No employee may place property in and then remove it from the Bulk Storage Room, unless to return the property to the owner. In that event, a Property Receipt shall be obtained from the owner and forwarded to the Property Officer or the Property Clerk so he/she may update the Automated Property System entry. The Property Officer or the Property Clerk will update the system during the next business day.

Items shall be securely bagged, wrapped, tied, taped or placed in a suitable container for transport to the forensic laboratory or storage.

When property is temporarily released from the Property Room, the item's change in status shall be immediately recorded in AEGIS by the Property Officer or Property Clerk releasing the item(s). A "Chain of Custody" form will be attached to the item and signed by the individual to whom the property is released. The Property Officer or Property Clerk will initiate a "Chain of Custody" entry in AEGIS for each item released. When the property is returned, the "Chain of Custody" form attached to the property will be retained with the item(s) of property. The Property Officer or Property Clerk will update the status of the item in AEGIS upon its return to the Property Room. The Property Officer or Property Clerk will also update the "chain of custody" record in AEGIS file.

The assigned employee shall be responsible for the proper maintenance of the chain of custody record and security of the item(s). At times the item is not actually needed, it shall be returned to the Property Room.

When stored property, including legally possessed marijuana, is returned to the owner by the Property Officer or Property Clerk, a property receipt will be obtained. The property receipt will be forwarded to the Records Bureau for imaging with the case. The Property Officer or Property Clerk will immediately update AEGIS to reflect the release of the property.

If a piece of returned property has never been entered into AEGIS, the employee completing the property receipt should route it directly to the Records Bureau with the notation "Not in AEGIS."

When indexed property is placed in evidence (and retained by the court) at trial, it is the responsibility of the employee submitting the evidence to the court to obtain a property receipt from the Court Clerk. This receipt ("Property Receipt/Court Property Receipt") shall be routed to the Property Officer. The Property Officer or the Property Clerk shall make the necessary updates in AEGIS and forward it to the Records Bureau for attachment/imaging to the numbered report.

No item of property shall be released without a signature receipt from the person receiving the property. If the property is being released for identification, investigation, laboratory examination, or court, a Chain of Custody Form shall be attached to the property and signed by the officer/employee to whom the property is released.

802.26 DISPOSAL OF PROPERTY

Property shall be disposed of by either:

- (a) Return of the property to its owner or finder;

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- (b) Sales of the property at auction;
 - (c) Conversion of the property to agency or other public use; or
 - (d) Destruction of the property.
 - (e) Property with no monetary or evidential value shall not be allowed to accumulate.
 - (f) Evidence on suspended misdemeanor investigations may be disposed of after twelve (12) months with the approval of the assigned employee's supervisor.
 - (g) Evidence in felony investigations may be disposed of with the approval of the assigned Detective Bureau supervisor. In deciding what evidence may be disposed of, the major consideration should be the value of the items in a criminal prosecution. Some items held in evidence have little or no value in court. If it will serve a useful prosecution purpose, photographs of the evidence may be requested prior to its disposal.
 - (h) In every instance where property in Departmental custody has been returned to its owner or finder, sold at auction, destroyed, or converted to agency or public use, the Property Officer, Property Clerk or Property Officer shall immediately update the AEGIS System. An appropriate comment may also be added to indicate the manner in which the item was disposed.

802.27 RETURN OF PROPERTY TO OWNER

The policy of this Department shall be that every item of found property, recovered property, or evidence is to be returned to the owner except in the following situations:

- (a) Where there is a Court Order to destroy.
- (b) Where there is written permission from the owner to destroy.
- (c) Where the law provides for the destruction or other disposition of the item.
- (d) Where all investigative measures have been taken but the owner cannot be identified or located.
- (e) Where the owner is contacted by telephone and gives the employee permission to dispose of the property. In such instances, the employee must file a written report with the numbered case, setting forth all the circumstances of the contact. A copy of this report must be routed to the Property Officer or Property Clerk.

When property is to be returned to the owner, the Property Officer or Property Clerk shall forward the Property Receipt to the Records Bureau. If the property has a serial number and has been entered into the Automated Property System of the Department of Justice, the Property Officer or Property Clerk shall notify the officer who authorized the release and that officer shall be responsible for insuring that item is removed from the Automated Property System or Automated Firearms System of the Department of Justice. If the authorization for release came from a court order, the Property Officer will request the item be removed from the appropriate Department of Justice automated system.

In all cases, property shall be released only after the owner has provided satisfactory proof of ownership, presented proper personal identification, and signed a Property Receipt.

802.28 FOUND PROPERTY TURNED IN AT THE FRONT COUNTER

When found property is brought to the Front Counter by a community member during business hours, Front Counter Professional Staff shall proceed as follows:

- (a) Complete a Found Property form to the best of your ability. The form should document the name of the community member, a description of the property, the location where it was found,

and the circumstances surrounding its discovery. If the community member is hesitant in disclosing their personal information, try explaining the importance of a possible link to a crime and subsequent needed follow up. If they are still hesitant, do not insist and write "Declined" or "Refused" on the appropriate line. This will demonstrate to the officer that an attempt was made to obtain the information and it was not an oversight on your part.

- (b) Do not search backpacks or large bags. Professional Staff is not trained in handling the potential dangers sometimes hidden in bags. Items which need to be searched should be directed to a Community Service Officer (CSO) at the Jail Bail window during business hours.
- (c) Itemize the found property on the form. If cash or valuables are turned in, it is recommended that either the community member turning in the property or a co-worker confirm the form is accurate by signing the form as a witness.
- (d) Contact the Communication Center to obtain a case number and have an officer assigned to the call. The case number may be given to the community member reporting the found property.
- (e) Place the property and the Found Property form in the blue locker next to the break room in the Records Bureau. The code for the locker will be the same code used to enter the PSB parking lot.
- (f) The dispatched officer will retrieve the found property and handle it per normal protocol.
- (g) If the property is oversized and will not fit in the locker or needs to be searched, bring the completed Found Property form and the property to a CSO at the Jail Bail window.

After normal business hours, the Communication Center will direct the community member with the found property to a CSO at the Jail Bail window.

802.29 FOUND PROPERTY TURNED IN AT THE JAIL BAIL WINDOW

CSOs will adhere to the same procedures as Professional Staff, with the following exceptions:

- (a) Booking prisoners and assisting officers will take precedence to collecting found property.
- (b) Backpacks and large bags may be searched.
- (c) The found property will be stored in the secure Jail Bail window office, which will also be the location for the officer to pick up the property.

802.30 RETURN OF FOUND PROPERTY TO FINDER

Berkeley Municipal Code Section 2.64.110 provides that all found property or found money coming into the possession of any member of the Police Department shall remain in the custody of the Department for at least 90 days. Methods of disposing of such property (with the exception of returning found and unclaimed property to the finder) are set forth in the ordinance.

California law distinguishes between a police employee finding an article or money in the course of his/her employment and the usual case where the finder has superior title against anyone except the real owner. It is the duty of a police employee to forfeit all claim of title to any article found or surrendered to him/her in the course of employment.

When a citizen reports the finding of money or any article, he/she may request that this Department take custody of the item and stipulate that it be returned at the finder's expense if the rightful owner cannot be located. The citizen shall be advised:

- (a) If no owner appears and proves ownership of the property within 90 days, the finder may take title to the property if requested within 30 days after expiration of the 90-day period.

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- (b) If the finder makes claim to the property within 30 days after expiration of the 90-day period, the Property Officer can release the property to the claimant if the value is less than \$250.00.
 - (c) If the property value is \$250.00 or greater, the Property Officer shall arrange for a notice of the found property to be published in a local newspaper of general circulation. The notice shall appear in at least one local newspaper for a minimum of (1) week and costs shall be paid by the finder.
 - (d) If, after seven (7) days following the publishing of the notice, no owner appears and proves ownership, title to the property shall vest in the finder. The finder may claim the property upon presentation of valid (picture) identification, and reimbursement to the Police Department for the publication of the notice described in (c) above.

The Property Officer or Property Clerk shall be responsible for insuring that all necessary cancellations are made in Departmental files whenever property is released under this Order. These cancellations are usually restricted to firearms entries in AFS.

It is not mandatory that citizens turn in found property to this Department; however, the procedure set forth above should be complied with to protect the finder from being in violation of Penal Code Section 485. This Section states that a finder is guilty of theft unless he/she makes a reasonable effort to find and restore the property to its rightful owner.

Should the finder wish to retain the property and proceed to gain title as set forth in this Order, a numbered report shall be prepared, a complete description of the property obtained, and the description checked against all appropriate files and systems (Local, State, etc.) in an attempt to locate the owner.

802.31 PUBLIC AUCTION OF PROPERTY

State law provides for the sale of unclaimed property which cannot be returned, and which is not required to be destroyed. Once each year, or more often if necessary, the Property Officer shall arrange for unclaimed property to be sold at public auction.

Unclaimed firearms and other weapons shall not be sold at auction. They shall be destroyed as provided by law.

802.32 DESTRUCTION OF STOLEN OR EMBEZZLED PROPERTY

Where the Property Officer has identified items of property for destruction, the Property Officer shall request approval for destruction of the item from the Police Department Bureau responsible for the criminal investigation involving the item.

- (a) The Bureau Lieutenant or his/her designee shall determine if there are pending court actions regarding the item, whether the item should be returned to its owner, or whether the item is suitable for destruction.
- (b) If the owner can be located, the Bureau Lieutenant or his/her designee shall notify the owner that the item is available for recovery within 30 days from the Police Department Property Room. The Bureau shall in turn notify the Property Officer that the owner is notified, and that the property shall be held for the owner.
- (c) If no owner can be located, the Bureau shall so notify the Property Officer, and confirm that the item is suitable for destruction.

If there is a dispute as to the ownership of a piece of stolen property, all parties shall be advised to apply to the court of jurisdiction for a determination of ownership.

802.33 DESTRUCTION OF FIREARMS AND WEAPONS

Firearms and weapons defined as "nuisances" by Penal Code Section 12028 are subject to disposal. By June 30th of each year, the Property Officer shall apply for a court order authorizing the destruction of "nuisance" weapons. The application shall list the weapons to be destroyed by make, model, caliber, and serial number.

Weapons defined as "Destructive Devices" by Penal Code Section 12301 and machine guns defined in Section 12251 PC, which were unlawfully possessed, must be surrendered to the California Department of Justice unless a certificate signed by a Judge or District Attorney is filed with the Department of Justice. The certificate must state that the preservation of such destructive devices or machine guns is necessary to serve the ends of justice.

- (a) Destruction of firearms and weapons shall be accomplished in such a manner so as to render the weapons absolutely useless. The destruction process shall occur at a commercial location arranged by the Property Officer and shall be witnessed by the Property Officer and Support Services Division Captain or his/her designee. A Sworn Supervisor may substitute for the Support Service Division Captain.
- (b) The Property Officer or Property Clerk shall update information regarding all serialized weapons from the appropriate computer system(s) immediately following such destruction. The Property Officer/Property Officer will update AEGIS immediately following any destruction of property or drugs.
- (c) The Property Officer shall maintain information on all property that has been destroyed and shall forward that information to the Records Bureau for placement in the applicable record storage system.

802.34 CONVERSION OF PROPERTY TO AGENCY OR PUBLIC USE

Civil Code Section 2080.4 and Penal Code Section 1411 provide that, if a City or county has enacted an enabling ordinance, certain unclaimed property held in the custody of the agency may be retained for agency or other public use, rather than being sold or destroyed. Penal Code Sections 12028 and 12030 provide the authority for acquisition of firearms for agency use.

- (a) Requests for acquisition for Departmental or other public use of unclaimed property held by this Department shall be made in memo format and forwarded to the Support Services Bureau Lieutenant. All requests shall include complete justification for acquiring the property and copies of all relevant agency documents describing how the requested property came into possession of the Department.
- (b) After a request has been approved by the Support Services Bureau Lieutenant, additional documents shall be obtained as described below when the property to be acquired is a firearm:
 1. A Certificate of Weapon Retention obtained from and signed by a Judge or District Attorney; and,
 2. A letter, describing the make, model, caliber, and serial number of the firearm, prepared for the signature of the Chief of Police, to the California Department of Justice.
- (c) Notwithstanding an order from the court to the contrary, money which is in the possession of the property section and which cannot be lawfully returned to its owner (after consultation with the appropriate prosecuting attorney), shall, at the direction of the Chief of Police, be transferred from the BPD Property Fund to the City General Fund. (Ref. Penal Code Sections 335a and 1418, and Health and Safety Code Sections 11488, etc.)
- (d) No property so acquired shall be used for personal or non-governmental purposes.

802.35 STORAGE OF SEIZED DRUG-RELATED FUNDS

Unless otherwise ordered by the District Attorney or Alameda County Superior Court, all seized drug-related funds shall be kept in the custody of the Police Department pursuant to Berkeley Municipal Code section 2.64.090, which requires a record be made thereof. Seized drug-related funds shall be kept a minimum of one year and ninety days from the date of seizure of the funds.

- (a) "Drug-related funds" means all moneys, negotiable instruments, or securities described in California Health and Safety Code section 11470 (f).
- (b) "Seized drug-related funds," means any drug-related funds seized by the Police Department pursuant to Division 10, Chapter 8 (commencing with Section 11470) of the Health and Safety Code.

802.36 DISPOSITION OF UNCLAIMED SEIZED DRUG-RELATED FUNDS

If the District Attorney or Attorney General institutes forfeiture proceedings for seized drug-related funds, the funds shall be disposed of in accordance with Division 10, Chapter 8 (commencing with Section 11470) of the Health and Safety Code.

Nonwithstanding Berkeley Municipal Code section 2.64.110, if forfeiture proceedings are not instituted and if seized drug-related funds are not ordered to be disposed by a court, the Police Department shall comply with any notice to withhold issued with respect to the funds by the Franchise Tax Board. If no notice to withhold has been issued with respect to the funds by the Franchise Tax Board, the funds shall be disposed of in accordance with the terms of this section.

No sooner than one year from the date of seizure of drug-related funds, the Property Officer shall send a certified letter to the last known address of the individual whose funds were seized. The Property Officer shall simultaneously publish a notice once a week for three successive weeks in a newspaper of general circulation in Alameda County.

- (a) Both the letter and the notice shall include the following:
 - 1. The case number of any criminal proceedings related to the funds;
 - 2. The Police Report number related to the funds;
 - 3. The date and place of seizure; and
 - 4. The amount of funds held by the Police Department.
- (b) Both the letter and the notice shall direct the individual to apply for a court date for release of the funds and shall specify the date by which the person must apply.
 - 1. The date shall be no sooner than ninety (90) days after the certified letter is deposited in the mail. The letter and notice shall further state that if such a court order is not obtained, the funds shall become the property of the City.

If court proceedings are not instituted and served on the City on or before the date specified in the notice and letter, the funds shall be transferred to the Police Department's asset forfeiture account.

802.37 INSPECTIONS OF EVIDENCE/PROPERTY STORAGE AREAS

A scheduled inspection of the Property Room will be made at least once every six months. The Support Services Division Captain or his/her designee shall conduct these inspections to determine that:

- (a) The respective Property Room storage facilities are being maintained in a clean and orderly fashion,
- (b) The provisions of this [General Order policy](#) are being followed,
- (c) Property is being protected from damage or deterioration,

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- (d) Property accountability procedures are being maintained, and
 - (e) Property having no further evidentiary value is being disposed of in accordance with the law and departmental policy.

The Support Services Division Captain or his/her designees shall include the nature and results of these inspections in his/her monthly management report to the Chief of Police.

Unannounced inspections of the Property Room will be conducted annually as directed by the Chief of Police. These spot inspections shall be conducted to determine that the Property Rooms are being maintained in a clean and orderly fashion, that the ~~General Order policies~~ are being followed, that property accountability and security procedures are in compliance, that all property is being sent to the main Property Rooms as soon as possible, and that the main Property Rooms received the necessary paper work to dispose of evidence/property no longer having evidentiary value. A random comparison of the records with physical property should consume most of the time allocated to the spot inspections. The Operations Division and Support Services Division Captains or their designees shall include the nature and results of these inspections in his/her report to the Chief of Police.

802.38 AUDITS

In December 2000, an automated property system was instituted. In order to ensure the credibility of this automated property system, a series of regular audits will be instituted. The following audits will be performed:

- (a) **Monthly Audits:** At least once each month, the Property Officer or Property Clerk will conduct a random audit of 25 items of property from various locations within the drug and property rooms. This monthly audit will examine the records for these items and confirm the status and location of each of these items is correct. The Property Officer will additionally conduct a "Cash" audit of the Property Room and determine the amount of cash currently stored within the Property Room. Once each month, the Property Officer or Property Clerk will check the "Chain of Custody" disposition records in AEGIS, or a manual log. When an article has been out of the Property Room for two weeks or more, the Property Officer will contact the employee that checked out the item of property and determine its status. Items out for more than two weeks shall have an explanation placed in AEGIS. The results of each of these audits shall be reported to the respective Division Captains.
- (b) **Bi-Annual Audits:** The Professional Standards Bureau Audit and Inspections Sergeant will be responsible for conducting audits of all of the Property Rooms at least twice a year. The Property Officer and Property Clerk will use portable barcode scanners to audit 100 pieces of property in their respective Property Rooms. The audit will check for the correct locations and status of each item. This audit will also check at least 5 different property locations and two drug evidence locations and confirm that those locations contain all the individual pieces of property that the AEGIS has assigned to those locations and ensure that there has been no tampering of the evidence. The results of each of these audits shall be reported to the Chief of Police, via the Professional Standards Division chain of command. The results will also be shared with the Captain and Lieutenant of the Support Services Division.

Whenever a new Property Officer is appointed, outgoing and incoming personnel shall conduct a joint inventory. The purpose of the inventory is to ensure the continuity of custody and not require the accounting of every single item of property. The inventory should be sufficient to ensure the integrity of the system and the accountability of the property. The person assuming custody of the property should ensure that all records are current and any discrepancies are recorded and reported to the Support Services Division Captain prior to the assumption of property accountability by the newly appointed custodian.

Computer Voice Stress Examinations

810.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the use of the Computer Voice Stress Analyzer (CVSA) as an investigative tool.

810.2 POLICY

All Berkeley Police Department CVSA examinations shall be conducted in accordance with regulations contained in the California Administrative Code, Business and Professions Code and Government Code.

810.3 THE COMPUTER VOICE STRESS ANALYZER (CVSA)

The CVSA is an excellent aid to law enforcement investigations; however, it should never be considered as a substitute or shortcut to an investigation.

- (a) The final result of a CVSA examination will be based, in great measure, upon the thoroughness of the investigation prior to having a subject take the examination.
- (b) In criminal investigations, examinations may be conducted upon:
 1. Suspects
 2. Victims
 3. Witnesses

810.4 PROCEDURES

Requests may be made to a CVSA examiner verbally or in writing. Requests must be accompanied by sufficient data for evaluation of the subject. The decision to do an examination is based on the nature of the investigation and the characteristics of the person to be examined.

Examinations will only be conducted in criminal cases where criminal prosecution, not civil litigation, is the intended result of the investigation.

810.5 INTERNAL INVESTIGATION

In keeping with the California Peace Officers' Bill of Rights, CVSA examinations will not be offered, nor given to sworn members of the Department.

810.6 BACKGROUND INVESTIGATIONS

During the background investigation process, a CVSA examination shall be administered to each police officer candidate. CVSA examinations shall only be administered by specially trained CVSA examiners employed by the Berkeley Police Department. CVSA examinations shall be

based on information provided by the applicant and discovered during the background investigation, including the Personal History Statement, Drug Use Questionnaire, and Pre-Investigative Questionnaire.

At the conclusion of the examination, the examiner shall prepare a memorandum addressed to the Personnel and Training Sergeant outlining the results. This memorandum shall include whether or not deception was indicated, and if so in what area. Any additional admissions or information developed during the interview shall be documented in the memorandum.

The results of the CVSA examination shall not be the sole determinant of any candidate's suitability for employment with the Berkeley Police Department.

Emergency Burial Permits

811.1 PURPOSE AND SCOPE

The purpose of this Policy is to establish procedures for issuance of emergency burial permits by the Berkeley Police Department.

811.2 POLICY

While the City of Berkeley Health, Housing, and Community Services (HHCS) Department is responsible for the daily administration and processing of burial permits, sworn supervisors or command rank officers (hereafter, "issuing officers") shall assist HHCS Department in the issuance of emergency burial permits according to the procedures set forth in this Policy.

811.3 CRITERIA FOR AN EMERGENCY BURIAL PERMIT

- (a) The death occurred within the city of Berkeley.
- (b) There is a need for an emergency permit, limited to the following:
 - 1. Religious necessity (i.e., Jewish custom);
 - 2. Natural disaster (i.e., earthquake, etc.); or
 - 3. Extraordinary circumstances requiring out-of-state transportation by the deceased person's family.

A permit request made urgent due to a statutory time limit (e.g., being beyond the 8-day time limit for burial) or a "long weekend" is not an emergency, and the person making the request shall be referred to the HHCS Department's Office of Vital Statistics during normal business hours.

811.4 NON - ISSUANCE

A burial permit shall not be issued in the following circumstances:

- (a) The applicant does not possess the required documents.
- (b) The applicant fails to submit the requisite permit fee.
- (c) The location intended to receive scattered cremated remains is not authorized by law or the property owner's consent (e.g., lakes, rivers, within 500 feet of an ocean or inland waterway shoreline, over public lands without proper approval, etc.).

811.5 HOURS OF ISSUANCE

An emergency burial permit may only be issued by the Police Department on Saturdays, Sundays and Holidays, between the hours of 9 a.m. and 4 p.m. A permit will not be issued by department personnel at any other time except on the personal request of the City's Public Health Officer.

811.6 PROCEDURES

- (a) The issuing officer shall receive the following forms from the funeral facility representative:
 - 1. An original Certificate of Death.

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2. An Application and Permit for the Disposition of Human Remains (State of California, Department of Public Health, Office of Vital Statistics form VS-9), completed in quadruplicate, and signed/dated by funeral director or authorized representative.
 3. When applicable, written authorization from a private property owner or governmental agency having jurisdiction over lands upon which cremated remains are to be scattered.

811.7 REVIEW OF DOCUMENTS

CERTIFICATE OF DEATH

The issuing officer shall review the Certificate of Death to ensure:

1. The death occurred in Berkeley (#106).
2. The Certificate is signed by either a physician or the Coroner (#115 and 118, and/or 126).
 - i. The Coroner must sign when the death was caused in whole or in part by an injury, is work-related, is under investigation or during the continued absence of the physician.
 - ii. The physician must have seen the deceased within 20 days of the date of death (Compare #7 with #114B).

If the body is embalmed, the Certificate bears the embalmer's license number (#43) and signature (#42). (If the body is not embalmed, the words "not embalmed" should be written in #42 and a dash in #43.

APPLICATION AND PERMIT FOR DISPOSITION OF HUMAN REMAINS

The issuing officer shall review the Application and Permit for Disposition of Human Remains to ensure:

1. The information on the form corresponds with that on the Certificate of Death.
2. The form is signed and dated by the applicant in sections 9A and 9B
3. The amount of "\$12.00" appears in the section 10A.
4. The current date appears in the section 10B.
5. The name of the City's Public Health Officer, (check city website for current MD) is written by the issuing officer, along with his/her initials and badge number, in section 10C.
6. The form reads "City of Berkeley Health Department, 1947 Center Street" in section 10D.
7. The location identified for disposition of cremated remains (11C and 16A) is legally authorized to receive said material, in conformance with Health and Safety Code §§7116 and 7117.

811.8 DISTRIBUTION OF DOCUMENTS AND FEE

The issuing officer shall present the first three copies of the completed Application and Permit for Disposition of Human Remains to the funeral facility representative.

The issuing officer shall forward the following items to HHCS Department's Office of Vital Statistics for each burial permit issued:

1. The fourth copy of the Application and Permit for Disposition of Human Remains;
2. The Certificate of Death; and,
3. The fee of \$12.00.
 - i. Checks shall be made payable to the "City of Berkeley".
 - ii. THE ISSUING OFFICER SHALL NOT PREPARE A RECEIPT FOR THE PERMIT FEE. HHCS Department staff is responsible for preparation and mailing of a receipt to the funeral facility.

811.9 BPD LOG

The issuing officer shall complete the "Health Department -Burial Permits" log attached to Burial Permit folder kept at Front Counter.

811.10 QUESTIONS

Questions or issues concerning burial permits that cannot be immediately resolved should be referred to the City of Berkeley's Vital Statistics Office.

Transportation of Prisoners

903.1 PURPOSE AND SCOPE

The purpose of this policy is to establish procedures for the restrained transportation of prisoners.

903.2 POLICY

Prisoners shall be transported to a custodial facility, court, or hospital in a safe and secure manner.

Officers transporting a prisoner should not respond to calls for service or take police action regarding an on-view incident unless immediate action is necessary to preserve life.

- (a) An officer who takes immediate police action to preserve life shall do so with reasonable consideration of both the benefits from police action and risk to the safety and security of the prisoner being transported.

903.3 GENERAL TRANSPORTATION

The officer responsible for a prisoner shall ensure he/she is supervised and under reasonable control during initial custody and transportation to a custodial or other required facility.

To ensure the safety of the transporting officer, all prisoners shall be searched prior to being placed in the transporting vehicle. Transported prisoners shall be physically restrained in accordance with the Handcuffing and Restraints policy.

Except when not possible or practical, prisoners shall be transported in cage-equipped police vehicles, secured in a passenger safety restraint system, in the area of the vehicle designed for prisoner containment (i.e., rear seat of a patrol car).

~~Transportation procedures regarding a prisoner whose gender is opposite of the transporting officer shall conform with Police Regulation 208.~~

When an employee transports a prisoner or suspect of the opposite sex, the employee shall either be accompanied by a second person or shall provide the Communications Center via radio with the number of the police vehicle and the odometer reading, both before and after the transportation.

A prisoner who has been cleared for incarceration may be transported in a police vehicle from a hospital or psychiatric facility to court or designated custodial facility.

Upon completion of transportation, the transporting officers shall search the transportation vehicle to insure no contraband or evidence has been discarded or secreted therein.

Prisoners shall not be transported to special events or activities (e.g., visiting an ill person, attending a funeral, attending the reading of a will, etc.).

Non-aggressive prisoners may be transported by a single officer from the scene of an arrest.

At least two officers shall participate in the transportation of multiple prisoners, of a single prisoner who is or may become aggressive or violent, or whenever the transportation is to or from a location outside the City of Berkeley.

- (a) Multiple officers involved in prisoner transportation may ride in the same transportation vehicle, or in separate vehicles travelling in convoy, whichever is appropriate to the situation.
- (b) Custodial protocols referenced in Policy 900.4.1 regarding prisoner classification-based segregation (i.e., males separate from females) shall be followed during transportation.

903.4 LONG DISTANCE TRANSPORTATION

At least one officer involved in a long-distance transportation during which a prisoner personal needs stop may occur shall be of the same sex as the prisoner being transported.

The transporting officers shall afford the prisoner the opportunity to tend to personal needs (i.e., restroom break), accompanied and effectively supervised by an officer of the same sex.

In the event transportation time will exceed eight (8) hours, the prisoner shall be provided a meal.

Transporting officers shall make reasonable efforts to ensure prisoner security and public safety during prisoner meal and personal need activities.

903.5 WHEELCHAIR-BOUND PRISONERS

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

Physically disabled prisoners who use a wheelchair to ambulate should be transported in a disabled-lift equipped vehicle.

- (a) When practical and appropriate, wheelchair-bound prisoners should be cited released in accordance with Cite and Release, or, when eligible, released from custody pursuant to Penal Code §849(b).
- (b) Employees should not remove a physically disabled person from his/her wheelchair for transport, unless it is necessary for his/her safety.

903.6 MENTALLY DISORDERED AND/OR INJURED PRISONERS

Mentally disordered prisoners shall be transported in accordance with the Crisis Intervention Policy.

If an illness, disability, or injury incapacitates the prisoner, transportation should be arranged with an ambulance.

903.7 NON CAGE VEHICLE TRANSPORTATION

When necessary to transport a single prisoner in a non-cage equipped common passenger vehicle, two officers shall participate in the following seating arrangement:

- (a) Driver officer alone in the front seat area;
- (b) Prisoner secured in the right rear passenger seat; and,
- (c) Passenger officer behind the driver in the left rear passenger seat.

When necessary to transport two prisoners in a non-cage equipped common passenger vehicle, two officers shall participate in the following seating arrangement:

- (a) Driver officer alone in the front seat area;
- (b) Prisoners secured in the right rear and center rear passenger seats; and,
- (c) Passenger officer behind the driver in the left rear passenger seat.

903.8 ESCAPE DURING DETENTION

If a prisoner escapes, or attempts an escape, during transportation within the City limits, the transporting officer shall immediately notify the Communication Center of his/her location and incident circumstances.

If a prisoner escapes, or attempts an escape, during transportation in another jurisdiction, the transporting officer(s) shall immediately notify and request assistance from the police agency where the escape occurred.

- (a) The transporting officer shall notify the Communication Center of his/her location and incident circumstances as soon as practical.
- (b) The Communication Center shall ensure the on-duty Patrol Division Watch Commander, or if absent or unavailable, the senior on-duty Patrol Division sergeant, is advised of the incident.

With due regard to officer safety, the transporting officer(s) shall make reasonable efforts to regain and/or maintain custody of the prisoner(s) (Penal Code §§835a, 854 and 855).

The transporting officer(s) shall document the escape, or attempted escape, in accordance with established criminal investigation and reporting procedures (Penal Code §836.6).

903.9 IN CUSTODY SERIOUS INJURY, DEATH

Any serious injury to or death of a prisoner during transportation shall be handled in accordance with protocols described in the Temporary Custody of Adults policy.

Special/Temporary Assignments – Application and Selection

1002.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the application, evaluation, and appointment of sworn and designated non-sworn employees, based on professional performance, ability, merit, and Department need to staff specialized assignments or positions available to their job classification.

1002.2 POLICY

It is the policy of this department to fairly evaluate and select qualified personnel for Special, Temporary Duty and Specialized duty assignments, and effectively manage associated administrative processes.

The provisions of this policy shall not apply to captains and lieutenants, or to sergeants appointed to the Internal Affairs Bureau, who will be assigned by the Chief of Police based on Departmental needs.

The provisions of this policy shall only apply to Special Duty, Temporary Duty and Specialized Duty assignment appointments made on or after the issuance date.

Notwithstanding the procedures described in this policy, the Chief of Police shall have the authority to assign personnel in any manner deemed advisable for the best interest of the Department, including exception to eligibility criteria for, or the extension or reduction of the term of an assignment. Any aforementioned exceptions will be communicated to the members of the Department and include the reason(s) when possible.

1002.3 DEFINITIONS

Extension of Assignment: The continuation of service in a Special or Temporary Duty assignment beyond the prescribed primary service term for a period of up to one year for Officers and Community Service Officers. Supervisors are eligible for two extensions of up to one year each, or as otherwise authorized in this policy. Decisions to extend an employee in a Special Assignment will be announced via bulletin notice.

- (a) The following Special assignments are eligible for two extensions of up to one year each:
1. Traffic Bureau Motorcycle Officers; and
 2. Crime Scene Unit Community Service Officer Identification Technicians.

Special Assignment: A duty assignment other than Patrol (for officers and sergeants) or the Jail (for Community Service Officers and CSO supervisors) that has a primary service term of three years.

Specialized Duty Assignment: Appointment to a specialized detail or team that provides “as needed” instructional, supervisory or operational services, and in which participation is additional to an employee’s primary duty assignment.

Temporary Duty Assignment: A duty assignment other than Patrol (for officers and sergeants) or the Jail (for Community Service Officers and CSO Supervisors) that has a primary service term of one year.

1002.4 ELIGIBILITY REQUIREMENTS

Unless otherwise prescribed within BPD policies, employees must have successfully completed at least one year of service with the Department in their job classification to be eligible for appointment to a Special, Temporary Duty, or Specialized duty assignment.

- (a) Except for newly created special assignments, an employee who is in a special assignment, or who has completed a prior special assignment within the previous year, should not be considered for appointment to another special assignment.

1002.5 ADMINISTRATIVE MANAGEMENT / SELECTION PROCESS

DESIGNATION

Assignments shall be designated as Special, Temporary Duty, or Specialized Duty at the discretion of the Chief of Police.

RESPONSIBILITY

The Personnel and Training Bureau shall be responsible for the administration of Special, temporary duty and Specialized duty assignments and associated application processes.

BULLETIN NOTICE

A bulletin notice announcing a Special, Temporary Duty or Specialized Duty assignment will be issued not less than fifteen calendar days prior to the closing date for application submission. This bulletin notice will include information to help prospective candidates prepare for the interview. This information will be provided to the Personnel and Training Bureau by the Bureau Lieutenant responsible for the open assignment.

APPLICATION

To be considered a candidate for a particular position, employees shall submit a Special Assignment Application form to the Personnel and Training Bureau by the closing date indicated in the position announcement.

- (a) Applicants shall complete the required sections of the Special Assignment Application form detailing relevant specialized training, prior assignments, and other pertinent background information.
- (b) Applicants may request to review their Special Assignment Application prior to their interview.

- (c) If less than three applications are received for an assignment, the Chief of Police may reopen the application process by extending the form submission deadline.

Subsequent to the application submission closing date, a bulletin notice shall be issued listing all persons applying for the announced opening(s).

ROUTING / RECOMMENDATIONS

The Personnel and Training Bureau shall route completed Special Assignment Application form(s) to the Division Captain(s) of the various candidates for supervisor and commanding officer comments.

- (a) The candidate's present assignment supervisor and commanding officer shall provide input regarding the candidate's performance and qualification for the desired assignment, and then return the form without delay to the Division Captain.
- (b) The Division Captain shall ensure Special Assignment Application forms containing supervisor and command officer comments are returned to the Personnel and Training Bureau in a timely manner.

APPLICATION REVIEW / INTERVIEW / FEEDBACK

The Personnel and Training Bureau shall route Special Assignment Application form(s) bearing supervisor and command officer comments to the Division Captain where the vacancy exists.

The Division Captain, or his/her designee, assisted by the bureau lieutenant and unit/detail supervisor where the vacancy exists, shall review the applications and interview all eligible candidates in a timely manner.

- (a) Upon the completion of each interview, the bureau lieutenant or unit/detail supervisor where a vacancy exists shall place career development comments and appropriate feedback on the individual application forms.
- (b) Applicants may also request a meeting with the bureau lieutenant, or his/her designee, for personal feedback on their performance, including areas of strength and areas for improvement.

RECOMMENDATION / APPLICATION RETENTION

The Division Captain where the vacancy exists shall submit his/her recommendation(s) for the open assignment(s) to the Chief of Police as soon as practical following the conclusion of candidate interviews.

Following the candidate interview process, the Division Captain will ensure the candidate's Special Assignment Application form is returned to the Personnel and Training Bureau.

- (a) The Personnel and Training Bureau will maintain application form originals in a secure file for one year. Applicants will be able to view or request a copy of their application during this time period.

1002.6 EXTENSION OF ASSIGNMENT

An employee who desires an extension of his/her Special or Temporary Duty assignment shall request the extension via the Chain of Command to the Division Captain no less than four months prior to his/her scheduled rotation.

Approval consideration by the Division Captain for the request shall be based on the employee's overall work performance and the recommendations offered by the employee's Chain of Command.

1002.7 TRANSITIONAL TRAINING

It shall be the responsibility of the Division Captain(s) receiving the "new" employee to ensure appropriate transitional training is provided.

Division Captain(s) shall evaluate employees returning to Patrol or the Jail from special or temporary duty assignments, and arrange for any needed training to reacquaint the employee with current operational policies and procedures.

Conference, Meeting, Seminar, and Outside Training Attendance

1037.1 PURPOSE AND SCOPE

The purpose of this Policy is to define the procedures to be followed when requesting permission to attend both local and non-local conferences and meetings.

1037.2 POLICY

Attendance at such functions by Department personnel shall conform to the policies contained in the City of Berkeley Administrative Regulation No. 3.9, "Attendance and Payment of Expenses Associated with Conferences, Meetings, Seminars, Trainings, and Workshops" and the related procedures outlined in this Policy.

1037.3 DEFINITIONS

A conference, generally, is a gathering of persons associated with a professional membership or support organization for discussing matters of common concern, which may include presentations, programs and exhibits related to municipal government and/or related functions. These include but are not limited to:

- (a) California Peace Officers' Association
- (b) California Police Chiefs' Association
- (c) California Association of Hostage Negotiators
- (d) National Tactical Officers' Association
- (e) International Association of Chiefs of Police

Not included are:

- (a) Legislative hearings
- (b) Law enforcement meetings called by the Attorney General
- (c) Any assemblage where an officer's presence is required as a matter of law
- (d) Travel required to conduct investigations or return prisoners

A meeting, generally, is a gathering of individuals to discuss matters pertaining to city business.

Seminars and training sessions are scheduled meetings designed to provide information or to up-grade skills, the contents of which shall pertain directly to city-related services.

Conferences, meetings and seminars and training sessions are classified according to their location:

- (a) Local includes the Bay Area and other locations where total travel and meeting time can be accomplished within one day.
- (b) A non-local conference, meeting or seminar is one where distance or duration of the conference, meeting or seminar requires overnight travel, or attendance is for more than one

day regardless of the distance traveled.

1037.4 THE CITY OF BERKELEY'S ADMINISTRATIVE REGULATION

Attendance shall conform to the City of Berkeley Administrative Regulation No. 3.9, "Attendance and Payment of Expenses Associated with Conferences, Meetings, Seminars, Trainings, and Workshops", which may be amended or superseded by further directives.

- (a) Travel to the place of the conference, meeting or training session, if at a location requiring more than four hours of driving time round-trip will, whenever possible be by air.
- (b) All other methods of travel shall conform to those described in the Administrative Regulation.

1037.5 OUTSIDE TRAINING REQUESTS

An employee desiring to attend a local conference, meeting or training session wherein there is an expenditure (i.e., meals, tuition or registration), or any non-local conference, meeting or training session), shall at the earliest possible time, submit a written request to the employee's commanding officer via "Outside Training Request" form.

All training needs to be approved first through the appropriate staffing Lieutenant. Those assigned to attend training during their regular duty shift shall attend in an on-duty status. Employees shall not "flex" or adjust their schedule in order to attend training and receive either paid overtime or compensatory time.

If approved, the Division Captain shall forward the request to Personnel and Training, indicating whether funds have been budgeted or are available.

Personnel and Training will prepare and forward the "Attendance and Travel Request" form, submitting it to the Chief of Police for review. If approved, it will be forwarded to the Budget Officer in the City Manager's Office for final review.

- (a) Personnel and Training ensures appropriate notifications are made to the officer and his/her commanding officer(s) regarding status of the training class.

1037.6 TRAVEL TIME

Section 29 C.F.R. 785.39 of The Fair Labor Standards Act (FLSA), provides that travel time is compensable work time when it occurs during the employee's regular working hours. Under this regulation, compensable travel time includes travel time that occurs during the employee's normal working hours on nonworking days.

"Travel time to" refers to the time it takes to get from the PSB to conference/training. "Travel time from" refers to the time it takes to get from the conference/training back to the PSB.

When attending an approved conference/training, "travel time to" will be compensable from the time the employee leaves the PSB to the time they arrive at their destination (i.e. hotel, class). On the return, "travel time from" will be compensable from the time the employee leaves the conference/training to the time they arrive at the PSB or their residence.

When attending an approved conference/training, the time given for lunch is not compensable. Participation in socials, gatherings, meetings that are not required for the completion of the conference/training are not compensable.

For auditing purposes, when completing the "Training Time Credit Record" the time spent traveling needs to be documented separate from the "times attended." This travel time needs to be hand-written onto the Training Time Credit Record.

1037.7 MILEAGE

Mileage should be calculated by the distance from either the PSB or your residence, whichever is closer to the conference/training, (i.e. for a class in Sacramento, mileage from the employee's house in Vacaville would be used because it is closer to Sacramento than Berkeley). The number of miles will be multiplied by the daily mileage rate (determined by the IRS or the BPA's MOU, see COB AR 7.2 - Use of Private Vehicles). Mileage should be documented on the "Mileage Reimbursement" form.

1037.8 CLASS COMPLETION

Class time missed as a result of an excused or unexcused absence shall be made up with the instructor's approval, prior to receiving a certificate of completion.

Employees shall be recognized for successful completion of training programs by the Training Manager. The Training Manager or their designee, shall maintain a listing of those courses completed by each member of the Department.

1037.9 DOCUMENTATION

The Training Time Credit Record, Mileage Reimbursement form, any receipts received, and the original or copy of any received certificate should be turned into the Personnel and Training Bureau within one week of returning to normal duties.

III. "New" – no corresponding General Order

P.#	Lexipol #	Title
187	101	Chief Executive Officer
189	102	Oath of Office
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193	309	Officer Response to Calls
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199	336	Mandatory School Employee Reporting
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Chief Executive Officer

101.1 PURPOSE AND SCOPE

The California Commission on Peace Officer Standards and Training (POST) has mandated that all sworn officers and dispatchers employed within the State of California shall receive certification by POST within prescribed time periods.

101.1.1 CHIEF EXECUTIVE OFFICER REQUIREMENTS

Any chief executive officer of this department appointed after January 1, 1999, shall, as a condition of continued employment, complete the course of training prescribed by POST and obtain the Basic Certificate by POST within two years of appointment (Penal Code § 832.4).

~~101.1.2 SHERIFF CANDIDATE REQUIREMENTS~~

~~Prior to filing for the office of Sheriff, any candidate shall at minimum meet the requirements of Government Code § 24004.3.~~

Oath of Office

102.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that oaths, when appropriate, are administered to department members.

102.2 POLICY

It is the policy of the Berkeley Police Department that, when appropriate, department members affirm the oath of their office as an expression of commitment to the constitutional rights of those served by the Department and the dedication of its members to their duties.

102.3 OATH OF OFFICE

All department members, when appropriate, shall take and subscribe to the oaths or affirmations applicable to their positions. All sworn members shall be required to affirm the oath of office expressing commitment and intent to respect constitutional rights in discharging the duties of a law enforcement officer (Cal. Const. Art. 20, § 3; Government Code § 3102). The oath shall be as follows:

"I, (employee name), do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter."

102.4 MAINTENANCE OF RECORDS

The oath of office shall be filed as prescribed by law (Government Code § 3105).

Administrative Communications

205.1 PURPOSE AND SCOPE

Administrative communications of this department are governed by the following policies.

205.2 BULLETIN NOTICE

A Bulletin Notice may be issued periodically by the Chief of Police to announce and document all promotions, transfers, hiring of new personnel, ~~and separations, training orders, personnel and group commendations,~~ or other changes in status.

205.3 CORRESPONDENCE

In order to ensure that the letterhead and name of the Department are not misused, all external correspondence shall be on Department letterhead. All Department letterhead shall bear the signature element of the Chief of Police. Personnel should use Department letterhead only for official business and with approval of their supervisor.

205.4 SURVEYS

All surveys made in the name of the Department shall be authorized by the Chief of Police or a Division ~~Captain~~ ~~Commander~~.

Officer Response to Calls

309.1 PURPOSE AND SCOPE

This policy provides for the safe and appropriate response to emergency and non-emergency situations whether dispatched or self-initiated.

309.2 RESPONSE TO CALLS

Officers dispatched "Code-3" shall consider the call an emergency response and proceed immediately. Officers responding Code-3 shall continuously operate emergency lighting equipment, including at minimum a steady forward facing red light, and shall sound the siren as reasonably necessary pursuant to Vehicle Code § 21055.

Responding with emergency light(s) and siren does not relieve the officer of the duty to continue to drive with due regard for the safety of all persons. The use of any other warning equipment without a red light and siren does not provide any exemption from the Vehicle Code.

Officers should only respond Code-3 when so dispatched or when circumstances reasonably indicate an emergency response is required. Officers not authorized to respond Code-3 shall observe all traffic laws and proceed without the use of emergency lights and siren.

~~309.3 REQUESTING EMERGENCY ASSISTANCE~~

~~Requests for emergency assistance should be limited to those situations where the involved personnel reasonably believe that there is an immediate threat to the safety of officers, or assistance is needed to prevent imminent serious harm to a citizen. In any event, where a situation has stabilized and emergency response is not required, the requesting officer shall immediately notify the Communications Center.~~

~~If circumstances permit, the requesting officer should give the following information:~~

- ~~• The unit number~~
- ~~• The location~~
- ~~• The reason for the request and type of emergency~~
- ~~• The number of units required~~

~~309.3.1 NUMBER OF UNITS ASSIGNED~~

~~Normally, only one unit should respond to an emergency call Code-3 unless the Watch Commander or the field supervisor authorizes an additional unit(s).~~

~~309.4 INITIATING CODE 3 RESPONSE~~

~~If an officer believes a Code-3 response to any call is appropriate, the officer shall immediately~~

~~notify the Communications Center. Generally, only the assigned units one unit should respond Code-3 to any situation. Should another officer believe a Code-3 response is appropriate, the Communications Center shall be notified and the Watch Commander or field supervisor will make a determination as to whether one or more officers driving Code-3 is appropriate.~~

309.5309.4 RESPONSIBILITIES OF RESPONDING OFFICERS

Officers shall exercise sound judgment and care with due regard for life and property when responding to an emergency call. Officers shall reduce speed at all street intersections to such a degree that they shall have complete control of the vehicle.

The decision to continue a Code-3 response is at the discretion of the officer. If, in the officer's judgment, the roadway conditions or traffic congestion does not permit such a response without unreasonable risk, the officer may elect to respond to the call without the use of red lights and siren at the legal speed limit. ~~In such an event, the officer should immediately notify the Communications Center. It is the officer's responsibility to terminate that, in his/her judgement, is inappropriate.~~ An officer shall also discontinue the Code-3 response when directed by a supervisor.

~~Upon receiving authorization or determining a Code-3 response is appropriate, an officer shall immediately give the location from which he/she is responding.~~

309.6309.5 COMMUNICATIONS RESPONSIBILITIES

A dispatcher shall assign a Code-3 response when an officer requests emergency assistance or available information reasonably indicates that the public is threatened with serious injury or death and immediate police response is needed. ~~In all other circumstances, the dispatcher shall obtain authorization from the Watch Commander or a field supervisor prior to assigning units Code-3.~~ The dispatcher shall:

- (a) Attempt to assign the closest available unit to the location requiring assistance
- ~~(b)~~ ~~Immediately notify the Watch Commander~~
- ~~(c)~~~~(b)~~ Confirm and repeat the location ~~from which the unit is responding~~where the Code-3 response is needed
- ~~(d)~~~~(c)~~ Notify and coordinate allied emergency services (e.g., fire and ambulance)
- ~~(e)~~~~(d)~~ Continue to obtain and broadcast information as necessary concerning the response and monitor the situation until it is stabilized or terminated
- ~~(e)~~ Control all radio communications during the emergency and coordinate assistance under the direction of the Watch Commander or field supervisor

309.7309.6 SUPERVISORY RESPONSIBILITIES

Upon being notified that a Code-3 response has been initiated, the Watch Commander or the field supervisor shall verify the following:

- (a) The proper response has been initiated
- (b) No more than those units reasonably necessary under the circumstances are involved in

- (c) the response
- (d) Affected outside jurisdictions are being notified as practical

The field supervisor shall monitor the response until it has been stabilized or terminated and assert control by directing units into or out of the response if necessary. If, in the supervisor's judgment, the circumstances require additional units to be assigned a Code-3 response, the supervisor may do so.

It is the supervisor's responsibility to terminate a Code-3 response that, in his/her judgment is inappropriate due to the circumstances.

When making the decision to authorize a Code-3 response, the Watch Commander or the field supervisor should consider the following:

- The type of call
- The necessity of a timely response
- Traffic and roadway conditions
- The location of the responding units

309.8309.7 FAILURE OF EMERGENCY EQUIPMENT

If the emergency equipment on the vehicle should fail to operate, the officer must terminate the Code-3 response and respond accordingly. In all cases, the officer shall notify the Watch Commander, field supervisor, or the Communications Center of the equipment failure so that another unit may be assigned to the emergency response.

Anti-Reproductive Rights Crimes Reporting

334.1 PURPOSE AND SCOPE

This policy shall establish a procedure for the mandated reporting of Anti-Reproductive Rights Crimes (ARRC) to the Attorney General pursuant to the Reproductive Rights Law Enforcement Act (Penal Code § 13775 et seq.).

334.2 DEFINITIONS

Penal Code § 423.2 provides that the following acts shall be considered Anti-Reproductive Rights Crimes (ARRC) when committed by any person, except a parent or guardian acting towards his or her minor child or ward:

- (a) By force, threat of force, or physical obstruction that is a crime of violence, intentionally injures, intimidates, interferes with, or attempts to injure, intimidate, or interfere with any person or entity because that person or entity is a reproductive health services client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider, or assistant
- (b) By non-violent physical obstruction, intentionally injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with, any person or entity because that person or entity is a reproductive health services client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider or assistant
- (c) Intentionally damages or destroys the property of a person, entity, or facility, or attempts to do so, because the person, entity, or facility is a reproductive health services client, provider, assistant, or facility

334.3 REPORTING REQUIREMENTS TO THE ATTORNEY GENERAL

- (a) Upon the receipt of the report of an ARRC, it shall be the responsibility of the employee taking such a report to also complete an ARRC Data Collection Worksheet (BCIA 8371) in accordance with the instructions contained on such forms.
- (b) The ARRC Data Collection Worksheet shall be processed with all related reports and forwarded to the Investigation Division ~~Commander~~Captain.
- (c) By the tenth day of each month, it shall be the responsibility of the Investigation Division ~~Commander~~Captain to ensure that a Summary Worksheet (BCIA 8370) is submitted to the Department of Justice Criminal Justice Statistics Center.
 1. In the event that no ARRC(s) were reported during the previous month, a Summary Worksheet shall be submitted to Department of Justice with an indication that no such crimes were reported.

Anti-Reproductive Rights Crimes Reporting

2. Any ARRC(s) reported in the Summary Worksheet shall be accompanied by a copy of the related Data Collection Worksheet(s).
- 2-3. Forms may be found here: <http://lib.post.ca.gov/Publications/Anti-ReproductiveRights.pdf>

Mandatory School Employee Reporting

336.1 PURPOSE AND SCOPE

The purpose of this policy is to describe the requirements and procedures to follow when a public or private school employee (teacher and non-teacher) has been arrested under certain circumstances.

336.2 POLICY

The Berkeley Police Department will meet the reporting requirements of California law to minimize the risks to children and others.

336.3 MANDATORY SCHOOL EMPLOYEE ARREST REPORTING

In the event a school employee is arrested for any offense enumerated below, the Chief of Police or his/her designee is required to report the arrest as follows.

336.3.1 ARREST OF PUBLIC SCHOOL TEACHER

In the event a public school teacher is arrested for any controlled substance offense enumerated in Health and Safety Code § 11590 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290, Penal Code § 261(a) or Education Code § 44010, the Chief of Police or his/her designee is mandated to immediately notify by telephone the superintendent of the school district employing the teacher and to immediately give written notice of the arrest to the Commission on Teacher Credentialing and to the superintendent of schools in the county where the person is employed (Health and Safety Code § 11591; Penal Code § 291).

336.3.2 ARREST OF PUBLIC SCHOOL NON-TEACHER EMPLOYEE

In the event a public school non-teacher employee is arrested for any controlled substance offense enumerated in Health and Safety Code § 11590 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290, Penal Code § 261(a) or Education Code § 44010, the Chief of Police or his/her designee is mandated to immediately notify by telephone the superintendent of the school district employing the non-teacher and to immediately give written notice of the arrest to the governing board of the school district employing the person (Health and Safety Code § 11591; Penal Code § 291).

336.3.3 ARREST OF PRIVATE SCHOOL TEACHER

In the event a private school teacher is arrested for any controlled substance offense enumerated in Health and Safety Code § 11590 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290 or Education Code § 44010, the Chief of Police or his/her designee is mandated to immediately notify by telephone the private school authority employing the teacher

Mandatory School Employee Reporting

and to immediately give written notice of the arrest to the private school authority employing the teacher (Health and Safety Code § 11591; Penal Code § 291.1).

336.3.4 ARREST OF COMMUNITY COLLEGE INSTRUCTOR

In the event a teacher or instructor employed in a community college district school is arrested for any controlled substance offense enumerated in Health and Safety Code § 11590 or Health and Safety § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(9), or for any of the offenses enumerated in Penal Code § 290 or in Penal Code § 261(a)(1), the Chief of Police or the authorized designee is mandated to immediately notify by telephone the superintendent of the community college district employing the person, and shall immediately give written notice of the arrest to the California Community Colleges Chancellor's Office (Health and Safety Code § 11591.5; Penal Code § 291.5).

336.4 ARREST OF PERSONS EMPLOYED IN COMMUNITY CARE FACILITIES

In the event an employee of a community treatment facility, a day treatment facility, a group home, a short-term residential ~~treatment center~~ therapeutic program or a foster family agency is arrested for child abuse (as defined in Penal Code § 11165.6) and the employee is free to return to work where children are present, the investigating member shall notify the licensee of the charge of abuse (Health and Safety Code § 1522.2).

Native American Graves Protection and Repatriation

345.1 PURPOSE AND SCOPE

This policy is intended ensure the protection and security of ancient or historic grave sites, including notification of personnel responsible for cultural items, in compliance with the Native American Graves Protection and Repatriation Act (NAGPRA) (25 USC § 3001 et seq.).

345.1.1 DEFINITIONS

Definitions related to this policy include (43 CFR 10.2):

Funerary objects and associated funerary objects - Objects that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains, or that were made exclusively for burial purposes or to contain human remains.

Native American human remains - The physical remains of the body of a person of Native American ancestry.

Objects of cultural patrimony - Objects having ongoing historical, traditional or cultural importance that is central to the Native American group or culture itself and therefore cannot be appropriated or conveyed by any individual, including members of the Native American group or Native Hawaiian organization. Such objects must have been considered inalienable by the Native American group at the time the object was separated from the group.

Sacred objects - Specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions.

345.2 POLICY

It is the policy of the Berkeley Police Department that the protection of Native American human remains, funerary objects, associated funerary objects, sacred objects or objects of cultural patrimony is the responsibility of all members. Such protection includes minimizing destruction, contamination, inadvertent disruption or complicated custody transfer processes.

345.3 COMPLIANCE WITH THE NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT

Upon discovery or arrival upon a scene where it reasonably appears that a Native American grave, human remains, funerary objects, associated funerary objects, sacred objects or objects of cultural patrimony are exposed or otherwise unsecured, members shall secure the site in the same manner as a crime scene. All activity at the scene other than scene preservation activity must cease (43 CFR 10.4).

No photography or video recording may be permitted by the media or any group or individual who may wish to exhibit the remains.

Without delay, the appropriate agency or group shall be notified to respond and take control of the scene. These include the following (43 CFR 10.4):

- Federal land - Appropriate agency at the U.S. Department of the Interior or U.S. Department of Agriculture
- State land/Private land - ~~(Medical Examiner/JOP)~~ The Coroner when appropriate (Health and Safety Code § 7050.5)
- Tribal land - Responsible Indian tribal official

345.4 EVIDENCE AND PROPERTY

If the location has been investigated as a possible homicide scene prior to identification as a NAGPRA site, investigators shall work with other appropriate agencies and individuals to ensure the proper transfer and repatriation of any material collected. Members shall ensure that any remains or artifacts located at the site are expediently processed (43 CFR 10.6).

Emergency Utility Service

416.1 PURPOSE AND SCOPE

The City Public Works Department has personnel available to handle emergency calls 24 hours per day. Calls for service during non-business hours are frequently directed to the Police Department. Requests for such service received by this department should be handled in the following manner.

416.1.1 BROKEN WATER LINES

The City's responsibility ends at the water meter; any break or malfunction in the water system from the water meter to the citizen's residence or business is the customer's responsibility. Public Works can only turn off the valve at the meter. The citizen can normally accomplish this.

If a break occurs on the City side of the meter, emergency personnel should be called as soon as practical by the Communications Center.

416.1.2 ELECTRICAL LINES

City Public Works does not maintain electrical lines to street light poles. When a power line poses a hazard, an officer should be dispatched to protect against personal injury or property damage that might be caused by power lines. The Electric Company or Public Works should be promptly notified, as appropriate.

416.1.3 RESERVOIRS, PUMPS, WELLS, ETC

Public Works maintains the reservoirs and public water equipment, as well as several underpass and other street drainage pumps. In the event of flooding or equipment malfunctions, emergency personnel should be contacted as soon as possible.

416.1.4 EMERGENCY NUMBERS

A current list of emergency personnel who are to be called for municipal utility emergencies is maintained by the Communications Center.

416.2 TRAFFIC SIGNAL MAINTENANCE

The City of Berkeley contracts with a private maintenance company to furnish maintenance for all traffic signals within the City, other than those maintained by the State of California.

416.2.1 OFFICER'S RESPONSIBILITY

Upon observing a damaged or malfunctioning signal, the officer will advise the Communications Center of the location and problem with the signal. The dispatcher should make the necessary notification to the proper maintenance agency.

Aircraft Accidents

417.1 PURPOSE AND SCOPE

Best Practice

The purpose of this policy is to provide department members with guidelines for handling aircraft accidents.

This policy does not supersede, and is supplementary to, applicable portions of the Crime and Disaster Scene Integrity, Emergency Management Plan and Hazardous Material Response policies.

417.1.1 DEFINITIONS

Best Practice

Definitions related to this policy include:

Aircraft - Any fixed wing aircraft, rotorcraft, balloon, blimp/dirigible or glider that is capable of carrying a person or any unmanned aerial vehicle other than those intended for non-commercial recreational use.

417.2 POLICY

Best Practice

It is the policy of the Berkeley Police Department to provide an appropriate emergency response to aircraft accidents. This includes emergency medical care and scene management.

417.3 ARRIVAL AT SCENE

Best Practice

Officers or other authorized members tasked with initial scene management should establish an inner and outer perimeter to:

- (a) Protect persons and property.
- (b) Prevent any disturbance or further damage to the wreckage or debris, except to preserve life or resolve the injured.
- (c) Preserve ground scars and marks made by the aircraft.
- (d) Manage the admission and access of public safety and medical personnel to the extent necessary to preserve life or to stabilize hazardous materials.
- (e) Maintain a record of persons who enter the accident site.
- (f) Consider implementation of an Incident Command System (ICS).

417.4 INJURIES AND CASUALTIES

Best Practice

Members should address emergency medical issues and provide care as a first priority.

Aircraft Accidents

Those tasked with the supervision of the scene should coordinate with the National Transportation Safety Board (NTSB) before the removal of bodies. If that is not possible, the scene supervisor should ensure documentation of what was disturbed, including switch/control positions and instrument/gauge readings.

417.5 NOTIFICATIONS

Best Practice

When an aircraft accident is reported to this department, the responding supervisor shall ensure notification is or has been made to NTSB, the Federal Aviation Administration (FAA), and when applicable, the appropriate branch of the military.

Supervisors shall ensure other notifications are made once an aircraft accident has been reported. The notifications will vary depending on the type of accident, extent of injuries or damage, and the type of aircraft involved. When an aircraft accident has occurred, it is generally necessary to notify the following:

- (a) Fire department
- (b) Appropriate airport tower
- (c) Emergency medical services (EMS)

417.6 CONTROLLING ACCESS AND SCENE AUTHORITY

Best Practice

Prior to NTSB arrival, scene access should be limited to authorized personnel from the:

- (a) FAA.
- (b) Fire department, EMS or other assisting law enforcement agencies.
- (c) Coroner.
- (d) Air Carrier/Operators investigative teams with NTSB approval.
- (e) Appropriate branch of the military, when applicable.
- (f) Other emergency services agencies (e.g., hazardous materials teams, biohazard decontamination teams, fuel recovery specialists, explosive ordnance disposal specialists).

The NTSB has primary responsibility for investigating accidents involving civil aircraft. In the case of a military aircraft accident, the appropriate branch of the military will have primary investigation responsibility.

After the NTSB or military representative arrives on-scene, the efforts of this department will shift to a support role for those agencies.

If NTSB or a military representative determines that an aircraft or accident does not qualify under its jurisdiction, the on-scene department supervisor should ensure the accident is still appropriately investigated and documented.

Aircraft Accidents

417.7 DANGEROUS MATERIALS

Best Practice

Members should be aware of potentially dangerous materials that might be present. These may include, but are not limited to:

- (a) Fuel, chemicals, explosives, biological or radioactive materials and bombs or other ordnance.
- (b) Pressure vessels, compressed gas bottles, accumulators and tires.
- (c) Fluids, batteries, flares and igniters.
- (d) Evacuation chutes, ballistic parachute systems and composite materials.

417.8 DOCUMENTATION

Best Practice

All aircraft accidents occurring within the City of Berkeley shall be documented. At a minimum the documentation should include the date, time and location of the incident; any witness statements, if taken; the names of BPD members deployed to assist; other City resources that were utilized; and cross reference information to other investigating agencies. Suspected criminal activity should be documented on the appropriate crime report.

417.8.1 WRECKAGE

Federal

When reasonably safe, members should:

- (a) Obtain the aircraft registration number (N number) and note the type of aircraft.
- (b) Attempt to ascertain the number of casualties.
- (c) Obtain photographs or video of the overall wreckage, including the cockpit and damage, starting at the initial point of impact, if possible, and any ground scars or marks made by the aircraft.

Military aircraft may contain classified equipment and therefore shall not be photographed unless authorized by a military commanding officer (18 USC § 795).

- (d) Secure, if requested by the lead authority, any electronic data or video recorders from the aircraft that became dislodged or cell phones or other recording devices that are part of the wreckage.
- (e) Acquire copies of any recordings from security cameras that may have captured the incident.

417.8.2 WITNESSES

Best Practice

Members tasked with contacting witnesses should obtain:

- (a) The location of the witness at the time of his/her observation relative to the accident site.
- (b) A detailed description of what was observed or heard.
- (c) Any photographs or recordings of the accident witnesses may be willing to voluntarily surrender.

Aircraft Accidents

- (d) The names of all persons reporting the accident, even if not yet interviewed.
- (e) Any audio recordings of reports to 9-1-1 regarding the accident and dispatch records.

417.9 MEDIA RELATIONS

Best Practice

The Public Information Officer (PIO) should coordinate a response to the media, including access issues, road closures, detours and any safety information that is pertinent to the surrounding community. Any release of information regarding details of the accident itself should be coordinated with the NTSB or other authority who may have assumed responsibility for the investigation.

Depending on the type of aircraft, the airline or the military may be responsible for family notifications and the release of victims' names. The PIO should coordinate with other involved entities before the release of information.

DRAFT

Obtaining Air Support

419.1 PURPOSE AND SCOPE

The use of a police helicopter can be invaluable in certain situations. This policy specifies potential situations where the use of a helicopter may be requested and the responsibilities for making a request.

419.2 REQUEST FOR HELICOPTER ASSISTANCE

If a supervisor or officer in charge of an incident determines that the use of a helicopter would be beneficial, a request to obtain helicopter assistance may be made.

419.2.1 REQUEST FOR ASSISTANCE FROM ANOTHER AGENCY

After consideration and approval of the request for a helicopter, the Watch Commander, or his/her designee, will call the closest agency having helicopter support available. The Watch Commander on duty will apprise that agency of the specific details of the incident prompting the request.

419.2.2 CIRCUMSTANCES UNDER WHICH AID MAY BE REQUESTED

Police helicopters may be requested under any of the following conditions:

(Per Berkeley City Council resolution No. 51.408 N.S.)

- ~~(a) — When the helicopter is activated under existing mutual aid agreements~~
- ~~(b) — Whenever the safety of law enforcement personnel is in jeopardy and the presence of the helicopters may reduce such hazard~~
- ~~(c) — When the use of the helicopters will aid in the capture of a suspected fleeing felon whose continued freedom represents an ongoing threat to the community~~
- (a) — When a helicopter is needed to locate a person who has strayed or is lost and whose continued absence constitutes a serious health or safety hazard
- (b) — Disaster assistance
- (c) — Rescue efforts (excluding hostage situations)
- ~~(e) — Vehicle pursuits~~

While it is recognized that the availability of helicopter support will generally provide valuable assistance to ground personnel, the presence of a helicopter will rarely replace the need for officers on the ground.

Smoking and Tobacco Use

1009.1 PURPOSE AND SCOPE

This policy establishes limitations on smoking and the use of tobacco products by members and others while on-duty or while in Berkeley Police Department facilities or vehicles.

For the purposes of this policy, smoking and tobacco use includes, but is not limited to, any tobacco product, such as cigarettes, cigars, pipe tobacco, snuff, tobacco pouches and chewing tobacco, as well as any device intended to simulate smoking, such as an electronic cigarette or personal vaporizer.

1009.2 POLICY

The Berkeley Police Department recognizes that tobacco use is a health risk and can be offensive to others.

Smoking and tobacco use also presents an unprofessional image for the Department and its members. Therefore smoking and tobacco use is prohibited by members and visitors in all department facilities, buildings and vehicles, and as is further outlined in this policy (Government Code § 7597; Labor Code § 6404.5).

1009.3 SMOKING AND TOBACCO USE

Smoking and tobacco use by members is prohibited anytime members are in public view representing the Berkeley Police Department.

It shall be the responsibility of each member to ensure that no person under his/her supervision smokes or uses any tobacco product inside City facilities and vehicles.

1009.4 ADDITIONAL PROHIBITIONS

No person shall use tobacco products within 20 feet of a main entrance, exit or operable window of any public building (including any department facility), or buildings on the campuses of the University of California, California State University and California community colleges, whether present for training, enforcement or any other purpose (Government Code § 7596 et seq.).

1009.4.1 NOTICE

The Chief of Police or the authorized designee should ensure that proper signage is posted at each entrance to the Department facility (Labor Code § 6404.5).

Seat Belts

1011.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of seat belts and child restraints. This policy will apply to all members operating or riding in department vehicles (Vehicle Code § 27315.5).

1011.1.1 DEFINITIONS

Definitions related to this policy include:

Child restraint system - An infant or child passenger restraint system that meets Federal Motor Vehicle Safety Standards (FMVSS) and Regulations set forth in 49 CFR 571.213.

1011.2 POLICY

It is the policy of the Berkeley Police Department that members use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle collision.

1011.3 WEARING OF SAFETY RESTRAINTS

All members shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this department while on- or off-duty, or in any privately owned vehicle while on-duty. The member driving such a vehicle shall ensure that all other occupants, including non-members, are also properly restrained.

Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where, due to unusual circumstances, wearing a seat belt would endanger the member or the public. Members must be prepared to justify any deviation from this requirement.

1011.4 TRANSPORTING CHILDREN

Children under the age of 8 shall be transported in compliance with California's child restraint system requirements (Vehicle Code § 27360; Vehicle Code § 27363).

~~Rear seat passengers in a cage-equipped vehicle may have reduced clearance, which requires careful seating and positioning of seat belts. Due to this reduced clearance, and if permitted by law, children and any child restraint system may be secured in the front seat of such vehicles provided this positioning meets federal safety standards and the vehicle and child restraint system manufacturer's design and use recommendations. In the event that a child is transported in the front seat of a vehicle, the seat should be pushed back as far as possible and the passenger-side airbag should be deactivated. If this is not possible, members should arrange alternate transportation when feasible. A child shall not be transported in a rear-facing child restraint system in the front seat in a vehicle that is equipped with an active frontal passenger airbag (Vehicle Code § 27363). A vehicle without a cage should be used where feasible.~~

1011.5 TRANSPORTING SUSPECTS, PRISONERS OR ARRESTEES

Suspects, prisoners and arrestees should be in a seated position and secured in the rear seat of any department vehicle with a prisoner restraint system or, when a prisoner restraint system is not available, by seat belts provided by the vehicle manufacturer. The prisoner restraint system is not intended to be a substitute for handcuffs or other appendage restraints.

Prisoners in leg restraints shall be transported in accordance with the Handcuffing and Restraints Policy.

1011.6 INOPERABLE SEAT BELTS

Department vehicles shall not be operated when the seat belt in the driver's position is inoperable. Persons shall not be transported in a seat in which the seat belt is inoperable.

Department vehicle seat belts shall not be modified, removed, deactivated or altered in any way, except by the vehicle maintenance and repair staff, who shall do so only with the express authorization of the Chief of Police.

Members who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

1011.7 VEHICLES MANUFACTURED WITHOUT SEAT BELTS

Vehicles manufactured and certified for use without seat belts or other restraint systems are subject to the manufacturer's operator requirements for safe use.

1011.8 VEHICLE AIRBAGS

In all vehicles equipped with airbag restraint systems, the system will not be tampered with or deactivated, except when transporting children as written elsewhere in this policy. All equipment installed in vehicles equipped with airbags will be installed as per the vehicle manufacturer specifications to avoid the danger of interfering with the effective deployment of the airbag device.

Meal Periods and Breaks

1017.1 PURPOSE AND SCOPE

~~This policy regarding meals and breaks, insofar as possible shall conform to the policy governing all City employees that has been established by the City Manager. The purpose of this policy is to establish guidelines for meal periods and breaks during an employee's shift.~~

1017.1.1 MEAL PERIODS

Sworn employees ~~and dispatchers~~ shall remain on duty and subject to call during meal breaks. All other employees are not on call during meal breaks unless directed otherwise by a supervisor.

~~Uniformed patrol and traffic officers~~ Officers on patrol shall request clearance from the Communications Center prior to taking a meal period. Uniformed officers shall take their breaks within the City limits unless on assignment outside of the City.

The time spent for the meal period shall not exceed the authorized time allowed.

~~1017.2~~ **15 MINUTE BREAKS**

~~Each employee is entitled to a 15 minute break, near the midpoint, for each four-hour work period. Only one 15 minute break shall be taken during each four hours of duty. No breaks shall be taken during the first or last hour of an employee's shift unless approved by a supervisor.~~

~~Employees normally assigned to the police facility shall remain in the police facility for their breaks. This would not prohibit them from taking a break outside the facility if on official business.~~

~~Field officers will take their breaks in their assigned areas, subject to call and shall monitor their radios. When field officers take their breaks away from their vehicles, they shall do so only with the knowledge and clearance of the Communications Center.~~

~~1017.3~~ **1017.2 SPORTSCARE**

Employees may, upon clearance by the on-duty supervisor, extend their lunch period by no more than thirty minutes in order to work out. Employees availing themselves of this opportunity will limit their workout within the Berkeley City limits and remain available and reachable by telephone during the entire period in the event of a specific need.

Lactation Break Policy

1018.1 PURPOSE AND SCOPE

The purpose of this policy is to provide reasonable accommodations to employees desiring to express breast milk for the employee's infant child (29 USC § 207 and Labor Code §§ 1030-1032).

1018.2 POLICY

It is the policy of this department to provide, in compliance with the Fair Labor Standards Act, reasonable break time and appropriate facilities to accommodate any employee desiring to express breast milk for her nursing infant child (29 USC § 207 and Labor Code § 1030).

1018.3 LACTATION BREAK TIME

A rest period should be permitted each time the employee has the need to express breast milk (29 USC § 207). In general, lactation breaks that cumulatively total 30 minutes or less during any four-hour work period or major portion of a four-hour work period would be considered reasonable. However, individual circumstances may require more or less time. Such breaks, if feasible, should be taken at the same time as the employee's regularly scheduled rest or meal periods.

While a reasonable effort will be made to provide additional time beyond authorized breaks, any such time exceeding regularly scheduled and paid break time will be unpaid (Labor Code § 1030).

Employees desiring to take a lactation break shall notify the Communications Center or a supervisor prior to taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt department operations (Labor Code § 1032).

Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

1018.4 PRIVATE LOCATION

The Department will make reasonable efforts to accommodate employees with the use of an appropriate room or other location to express milk in private. Such room or place should be in close proximity to the employee's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view and free from intrusion from co-workers and the public (29 USC § 207 and Labor Code § 1031).

Employees occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other employees should avoid interrupting an employee during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area.

1018.5 STORAGE OF EXPRESSED MILK

Any employee storing expressed milk in any authorized refrigerated area within the Department shall clearly label it as such and shall remove it when the employee ends her shift.

Payroll Record Procedures

1019.1 PURPOSE AND SCOPE

Payroll records are submitted to ~~the Payroll Clerk~~Professional Standards Division Support Services on a ~~bi-weekly~~daily (for patrol teams) and weekly (for bureaus, details and teams outside of patrol divisions) basis for the payment of wages.

1019.1.1 RESPONSIBILITY FOR COMPLETION OF PAYROLL RECORDS

Employees are responsible for the accurate and timely submission of payroll records for the payment of wages.

1019.2 TIME REQUIREMENTS

All employees are paid on a bi-weekly basis usually on Friday with certain exceptions such as holidays. Payroll records shall be completed and submitted to ~~the Payroll Clerk~~Support Services~~Professional Standards Division~~ no later than ~~1400 hours~~8:00 a.m. on the ~~Wednesday morning before the end of the pay period~~payroll closing day, usually on the Monday after the end of the pay period, unless specified otherwise.

Personal Appearance Standards

1023.1 PURPOSE AND SCOPE

In order to project a professional image, appropriate for this department uniformity and neutrality toward the public and other members of the department, employees shall maintain their personal hygiene and appearance. ~~to project a professional image appropriate for this department and for their assignment.~~

1023.2 GROOMING STANDARDS

Unless otherwise stated and because deviations from these standards could present officer safety issues, the following appearance standards shall apply to all employees, except those whose current assignment would deem them not appropriate, and where the Chief of Police has granted exception.

1023.2.1 HAIR

Hairstyles of all members shall be clean, well-groomed, and professional in appearance. ~~neat in appearance. For male sworn members, hair must not extend below the top edge of the uniform collar while assuming a normal stance.~~

~~For female sworn members, hair must be no longer than the horizontal level of the bottom of the uniform patch when the employee is standing erect, worn up or in a tightly wrapped braid or ponytail.~~

1023.2.2 MUSTACHES

~~A short and neatly trimmed mustache may be worn. Mustaches shall not extend below the corners of the mouth or beyond the natural hairline of the upper lip.~~

1023.2.3 SIDEBURNS

~~Sideburns shall not extend below the bottom of the outer ear opening (the top of the earlobes) and shall be trimmed and neat.~~

1023.2.4 FACIAL HAIR

Facial hair shall be clean, well-groomed, and professional in appearance. ~~other than sideburns, mustaches and eyebrows shall not be worn, unless authorized by the Chief of Police or his or her designee.~~

1023.2.5 FINGERNAILS

~~Fingernails extending beyond the tip of the finger can pose a safety hazard to officers or others. For this reason, fingernails shall be trimmed so that no point of the nail extends beyond the tip of the finger.~~

1023.2.6 JEWELRY AND ACCESSORIES

No jewelry, pins, or personal ornaments shall be worn by officers on any part of the uniform or

equipment, except those authorized within this manual. Jewelry, if worn around the neck, shall not be visible above the shirt collar.

~~Earrings shall not be worn by uniformed sworn members, detectives or special assignment personnel without permission of the Chief of Police or his/her designee. Only one ring may be worn on each hand of the employee while on duty.~~

1023.3 TATTOOS

~~While on duty or representing the Department in any official capacity, every reasonable effort should be made to conceal tattoos or other body art.~~ At no time while on-duty or representing the Department in any official capacity, shall any offensive tattoo or body art be visible. Examples of offensive tattoos would include, but not be limited to, those which depict racial, sexual, discriminatory, gang related, or obscene language.

~~1023.4 BODY PIERCING OR ALTERATION~~

~~Body piercing or alteration to any area of the body visible in any authorized uniform or attire that is a deviation from normal anatomical features and which is not medically required is prohibited. Such body alteration includes, but is not limited to:~~

~~Tongue splitting or piercing.~~

~~The complete or transdermal implantation of any material other than hair replacement.~~

~~Abnormal shaping of the ears, eyes, nose or teeth~~

~~Branding or scarification.~~

Department Badges

1027.1 PURPOSE AND SCOPE

The Berkeley Police Department badge and uniform patch as well as the likeness of these items and the name of the Berkeley Police Department are property of the Department and their use shall be restricted as set forth in this policy.

1027.2 POLICY

The uniform badge shall be issued to department members as a symbol of authority and the use and display of departmental badges shall be in strict compliance with this policy. Only authorized badges issued by this department shall be displayed, carried or worn by members while on duty or otherwise acting in an official or authorized capacity.

1027.2.1 FLAT BADGE

Sworn officers, ~~with the written approval of the Chief of Police~~ may purchase, at his/her own expense, a flat badge capable of being carried in a wallet. The use of the flat badge is subject to all the same provisions of departmental policy as the uniform badge.

- (a) An officer may sell, exchange, or transfer the flat badge he/she purchased to another officer within the Berkeley Police Department, ~~with the written approval of the Chief of Police.~~
- (b) Should the flat badge become lost, damaged, or otherwise removed from the officer's control, he/she shall make the proper notifications as outlined in the Department Owned and Personal Property Policy.
- (c) An honorably retired officer may keep his/her flat badge upon retirement.
- (d) The purchase, carrying or display of a flat badge is not authorized for non-sworn personnel.

1027.2.2 NON-SWORN PERSONNEL

Badges and departmental identification cards issued to non-sworn personnel shall be clearly marked to reflect the position of the assigned employee (e.g. Parking Enforcement Officer, Control, Dispatcher).

- (a) Non-sworn personnel shall not display any department badge except as a part of his/her uniform and while on duty, or otherwise acting in an official and authorized capacity.
- (b) Non-sworn personnel shall not display any department badge or represent him/herself, on or off duty, in such a manner which would cause a reasonable person to believe that he/she is a sworn peace officer.

1027.2.3 RETIREE UNIFORM BADGE

Upon honorable retirement employees may purchase his/her assigned duty badge for display purposes. It is intended that the duty badge be used only as private memorabilia as other uses of the badge may be unlawful or in violation of this policy.

Retirees may also purchase or be given (either by the Department or Association) an "Honorably Retired" badge to be carried or kept as memorabilia.

1027.2.4 PROMOTIONS

Upon promotion to another rank, employees may purchase his/her previously assigned duty badge for display purposes. It is intended that the duty badge be used only as private memorabilia as other uses of the badge may be unlawful or in violation of this policy.

1027.3 UNAUTHORIZED USE

Except as required for on-duty use by current employees, no badge designed for carry or display in a wallet, badge case or similar holder shall be issued to anyone other than a current or honorably retired peace officer.

Department badges are issued to all sworn employees and non-sworn uniformed employees for official use only. The department badge, shoulder patch or the likeness thereof, or the department name shall not be used for personal or private reasons including, but not limited to, letters, memoranda, and electronic communications such as electronic mail or web sites and web pages.

The use of the badge, uniform patch and department name for all material (printed matter, products or other items) developed for department use shall be subject to approval by the Chief of Police.

Employees shall not loan his/her department badge or identification card to others and shall not permit the badge or identification card to be reproduced or duplicated.

1027.4 PERMITTED USE BY EMPLOYEE GROUPS

The likeness of the department badge shall not be used without the expressed authorization of the Chief of Police and shall be subject to the following:

- (a) The employee associations may use the likeness of the department badge for merchandise and official association business provided they are used in a clear representation of the association and not the Berkeley Police Department. ~~The following modifications shall be included:~~
- ~~(b) The text on the upper and lower ribbons is replaced with the name of the employee association.~~
- ~~(c) The badge number portion displays the acronym of the employee association.~~
- ~~(d)~~(b) The likeness of the department badge for endorsement of political candidates shall not be used without the expressed approval of the Chief of Police.