

# Palo Alto Police Department

## Policy Manual

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### **LAW ENFORCEMENT CODE OF ETHICS**

As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against violence or disorder; and to respect the constitutional rights of all to liberty, equality and justice.

I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or to my agency. I will maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence.

I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession . . . law enforcement.

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## **MISSION STATEMENT**

### **MISSION STATEMENT**

To Proudly Serve and Protect the Public with Respect and Integrity.

### **VISION STATEMENT**

Through the Leadership and Commitment of Employees, the Palo Alto Police Department will build Trust and Respect with the Public and the Law Enforcement Profession.

### **CORE VALUE STATEMENT**

We value and expect teamwork, trust, integrity, accountability, a positive attitude and the professional, impartial treatment of all.

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## **Chapter 1 - Law Enforcement Role and Authority**

## Law Enforcement Authority

### 100.1 PURPOSE AND SCOPE

Law enforcement officers are granted the authority to perform their function based on established legal authority. This department does not tolerate abuse of law enforcement authority.

### 100.2 PEACE OFFICER POWERS

Sworn members of this department shall be considered peace officers pursuant to Penal Code § 830.1. The authority of any such peace officer extends to any place in the State of California, as follows:

- (a) As to any public offense committed or which there is probable cause to believe has been committed within the political subdivision which employs the peace officer; or
- (b) Where the peace officer has the prior consent of the chief of police, or person authorized by him or her to give consent, if the place is within a city or of the sheriff, or person authorized by him or 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 the peace officer's presence, and with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of the offense.

### 100.3 CONSTITUTIONAL REQUIREMENTS

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



## Chief Executive Officer

### 102.1 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.

#### 102.1.1 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.

## Oath of Office

### 104.1 PURPOSE AND SCOPE

Officers of this department are sworn to uphold the federal and state constitutions and to enforce federal, state and local laws.

#### 104.1.1 OATH OF OFFICE

Upon employment, all sworn employees 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.

# Policy Manual

## 106.1 PURPOSE AND SCOPE

The manual of the Palo Alto 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.

## 106.2 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.

### 106.2.1 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 Palo Alto 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 Palo Alto Police Department reserves the right to revise any policy content, in whole or in part.

## 106.3 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 Interim Directives, which shall modify those provisions of the manual to which they pertain. Interim Directives shall remain in effect until such time as they may be permanently incorporated into the manual.

## 106.4 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).

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**CHP** - The California Highway Patrol.

**CFR** - Code of Federal Regulations.

**City** - The City of Palo Alto.

**Civilian** - Employees and volunteers who are not sworn peace officers.

**Department/PAPD** - The Palo Alto Police Department.

**DMV** - The Department of Motor Vehicles.

**Employee/personnel** - Any person employed by the Department.

**Juvenile** - Any person under the age of 18 years.

**Manual** - The Palo Alto Police Department Policy Manual.

**May** - Indicates a permissive, discretionary or conditional action.

**Member** - Any person employed or appointed by the Palo Alto Police Department, including full-time sworn officers, reserve officers, civilian employees and volunteers.

**Officer** - Those employees, regardless of rank, who are sworn peace officers of the Palo Alto 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 regarding 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.

## **106.5 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 Interim Directives. Members shall seek clarification as needed from an appropriate supervisor for any provisions that they do not fully understand.

## **106.6 PERIODIC REVIEW OF THE POLICY MANUAL**

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

## **106.7 REVISIONS TO POLICIES**

All employees are responsible for keeping abreast of all Policy Manual revisions. The Personnel and Training Lieutenant will forward revisions to the Policy Manual as needed to all personnel via electronic mail. Each unit manager will ensure that employees under his/her command are aware of any Policy Manual revisions.

All employees are responsible for keeping abreast of all Policy Manual revisions. All changes to the Policy Manual will be posted on the S:drive link, PD folder - Policy Manual Interim Directives. Lieutenants will forward interim directives and/or revisions to the Policy Manual as needed to all personnel via electronic mail.

## **Chapter 2 - Organization and Administration**

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## 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 Palo Alto Police Department. There are four divisions in the Police Department as follows:

- Administration
- Field Services
- Investigative Services
- Technical Services

#### 200.2.1 ADMINISTRATION DIVISION

The Administrative Services Division commanded by the Police Chief whose primary responsibility is to provide general management direction and control for the Administrative Services Division. The Administrative Services Division consists of Administrative Services and the Personnel and Training Unit.

#### 200.2.2 FIELD SERVICES DIVISION

The Field Services Division is commanded by a Captain whose primary responsibility is to provide general management direction and control for that Division. The Field Services Division consists of uniformed Patrol and Special Operations, Traffic, and Reserve Officers.

#### 200.2.3 INVESTIGATIVE SERVICES DIVISION

The Investigative Services Division is commanded by a Captain whose primary responsibility is to provide general management direction and control for that division. The Investigative Services Division consists of Investigations, Property and Evidence and Animal Services.

#### 200.2.4 TECHNICAL SERVICES DIVISION

The Technical Services Division is commanded by the Technical Services Coordinator. The Technical Services Division consists of the Records Unit, Communications, Crime Analysis, Technology and Radio 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 to serve as the acting Chief of Police.

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### *Organizational Structure and Responsibility*

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

- (a) Field Services Division Captain
- (b) Investigative Services Division Captain
- (c) 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., K-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.

#### 200.3.4 RESPONSIBILITY OF RANK

In order to ensure that the Palo Alto Police Department can effectively accomplish its mission, it is essential that all supervisors represent the values of the organization and serve as role models to the officers and the community. The higher rank an individual achieves, the higher level of expectation is applied.

#### 200.3.5 PROCEDURE

Members within each of the following ranks will at all times discharge their duties in a manner, which reflects a commitment to the highest standards of the Palo Alto Police Department and the law enforcement profession.

- Chief of Police
- Assistant Police Chief
- Captain/Technical Services Coordinator
- Administrative Services Coordinator
- Lieutenant/Manager
- Sergeant/Supervisor
- Agent/Lead

Duties and responsibilities of each rank shall include, but not limited to the following:

- (a) Display positive, professional leadership;
- (b) Demonstrate the highest standards of integrity;



# Palo Alto Police Department

## Policy Manual

### *Organizational Structure and Responsibility*

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- (c) Enforce City and Department rules, regulations, policies and procedures consistently and fairly;
- (d) Provide timely, accurate and complete communications to superiors, peers and subordinates;
- (e) Clarify goals, objectives and performance standards for subordinates;
- (f) Provide clear direction and timely feedback to subordinates;
- (g) Recognize and reward good work;
- (h) Confront problems and initiate timely and appropriate corrective action;
- (i) Maintain professional competency in administrative, cognitive, technical and tactical areas;
- (j) Demonstrate an understanding of the City budget and administrative processes. Manage assigned budget and resources;
- (k) Seek ownership in problems;
- (l) Ensure accountability in superiors, peers, and subordinates;
- (m) Be a visionary leader. Support innovation and change;
- (n) Follow through on commitments in a timely manner;
- (o) Be fair and consistent in decision making and in dealing with all people;
- (p) Train, mentor and develop subordinates;
- (q) Have a thorough knowledge of conditions, which affect his/her unit or work group (e.g., crime, traffic, legal issues, local political and social issues);
- (r) Appropriately delegate tasks and monitor status;
- (s) Seek innovative strategies, and community partnerships in problem solving;
- (t) Insure that work plans and operational plans are consistent with Department and City plans and priorities;
- (u) Encourage a team approach to problem solving;
- (v) Be approachable. Be interested and involved in the work of subordinates;
- (w) Create a positive work environment.

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## Interim Directive

### 204.1 PURPOSE AND SCOPE

Interim Directives 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 of Understanding and as permitted by Government Code § 3500 et seq. Interim Directives will immediately modify or change and supersede sections of this manual to which they pertain.

#### 204.1.1 INTERIM DIRECTIVE PROTOCOL

Interim Directives will modify and supersede existing policies or create a new policy or procedure as appropriate. They will then be incorporated into the next regular full revision of the Policy Manual.

All Interim Directives shall be issued Department-wide via e-mail from the account "PAPD Policy Update" and be numbered in a sequential manner.

Once distributed via e-mail, the Interim Directive will also be stored online at "S:\PD\Policy Manual Interim Directives" until such time as they are incorporated into the next regular full revision of the Policy Manual. They will also be printed and kept in the hard copy Policy Manuals kept throughout the Department until such time as they are incorporated into the next regular full revision of the Policy Manual.

### 204.2 RESPONSIBILITIES

#### 204.2.1 STAFF

The staff shall review and approve revisions of the Policy Manual, which will incorporate changes originally made by a Interim Directive.

#### 204.2.2 CHIEF OF POLICE

The Chief of Police shall approve all Interim Directives. The Chief or his/her designee may distribute the Interim Directives to the Department.

### 204.3 ACCEPTANCE OF INTERIM DIRECTIVES

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

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## Emergency Management Plan

### 206.1 PURPOSE AND SCOPE

The City Office of Emergency Services (OES) has prepared an Emergency Operations Plan (EOP) 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).

### 206.2 ACTIVATING THE EMERGENCY PLAN

The Emergency Operations Plan can be activated on the order of the official designated by local ordinance.

#### 206.2.1 RECALL OF PERSONNEL

In the event that the Emergency Operations Plan is activated, all employees of the Palo Alto 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.

#### 206.2.2 PROCEDURE

The Incident Command System should be utilized for critical incidents that are planned and non-planned. The Incident Command System shall be used whenever a critical incident:

- (a) Will be prolonged in duration;
- (b) Utilizes a large amount of resources or personnel;
- (c) Includes inter-agency assistance;
- (d) Involves multi-agency assistance;
- (e) Becomes a multi-agency/multi-jurisdictional operation.

Critical incidents include, but are not limited to: earthquakes, flood, fires and explosions, search and rescue, hazardous materials incidents, aircraft crashes, officer involved shootings, riots and other major incidents.

### 206.3 LOCATION OF THE PLAN

The Emergency Operations Plan is available in the Emergency Operations Center (EOC). All supervisors should familiarize themselves with the Emergency Operations Plan. The Personnel and Training supervisor should ensure that department personnel are familiar with the roles police personnel will play when the plan is implemented.

## *Emergency Management Plan*

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### **206.4 UPDATING PLANS**

The Office of Emergency Services (OES) will consult with the Chief of Police to keep the Emergency Operations Plans and other such documents updated.

### **206.5 RESPONSIBILITIES OF FIRST RESPONDERS**

Very often the beat officer will be the first emergency personnel at the scene of a critical incident. The First Responder has responsibilities which include:

- (a) Establishing on-scene command;
- (b) Formulating and broadcasting a situation assessment;
- (c) Setting up a command post;
- (d) Requesting personnel and other resources;
- (e) Providing a staging area for responding personnel.

To accomplish these tasks, the First Responder should assume command responsibility, appoint others to control activities, assign missions, gather intelligence, and delegate other tasks as necessary to establish control until relieved.

#### **206.5.1 MUTUAL AID**

Personnel shall follow the guidelines set forth in the Santa Clara County Protocols Section 16 - Mutual Aid Protocol when requesting formal Law Enforcement Mutual Aid at the Operational Area level.

### **206.6 RESPONSIBILITIES OF ON-SCENE SUPERVISOR**

The first supervisor to arrive on scene may assume the role of the Incident Commander at the scene of a critical incident. The on-scene Supervisor should immediately conduct his or her own situation assessment, regardless. The on-scene Supervisor should immediately ensure that an Incident Command Post and a journal log for recording major activities have been established. The on-scene Supervisor should ensure the implementation of the Incident Command System and assign staff to critical control functions (i.e., Planning/Intelligence, Operations, Logistics and Finance).

The on-scene Supervisor should support the IC with:

- (a) Perimeter control provisions;
- (b) Interior control provisions;
- (c) Evacuation procedures;
- (d) Liaison with other emergency agencies;
- (e) Traffic control plans;
- (f) Mobilization of on-duty personnel;
- (g) Mutual Aid contingencies;

## *Emergency Management Plan*

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- (h) Notification of command staff (See Policy 358).

### **206.7 RESPONSIBILITIES OF ON-DUTY WATCH COMMANDER**

The on-duty Watch Commander may relieve the on-scene Supervisor or the First Responder, when necessary. The on-duty Watch Commander should conduct a situation assessment and further implement the Incident Command System.

The on-duty Watch Commander will ensure that Communications has notified each Division Captain/Coordinator, and the Police Chief.

### **206.8 RESPONSIBILITIES OF COMMAND STAFF**

Command Staff may relieve the on-duty Watch Commander or fill other roles when necessary. The Command Staff should:

- (a) Conduct a situation assessment and provide command support for the Incident Commander.
- (b) Coordinate notification of affected City Departments and outside agencies as required.
- (c) Policy Manual §408 should be consulted if the Command Staff designates the incident as a Crisis Response Unit operation.
- (d) Assess the need for mutual aid and coordinate any request for mutual aid.

### **206.9 EQUIPMENT**

The following Incident Command System equipment shall be made available whenever the ICS is implemented:

- (a) Incident Command System Manual - All recipients of the Incident Command System manual are responsible for its care and maintenance. The ICS manual is to be utilized whenever the ICS is implemented. Supervisors and Managers shall ensure that a copy of the ICS manual is readily available.
- (b) Incident Command System Vests - Vests designating the Incident Commander, Planning/Intelligence Officer-in-charge, Field Operations Officer-in-charge, Logistics Officer-in-charge, Finance Officer-in-charge and Public Information Officers are located in the Watch Commander's office and the evidence van. Additional Incident Commander and Public Information Officer vests are located in the Watch Commander's vehicle and the two Sergeant's vehicles. Incident Command System vests will be immediately distributed and worn by the designated personnel when the ICS is implemented.

### **206.10 TRAINING**

Supervisors should receive ICS training. Managers and Command staff should receive mutual aid refresher training in addition to ICS training.

The ICS training may be conducted in-house or by a POST certified trainer.

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### 208.1 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.

### 208.2 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).

### 208.3 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

### 208.4 TRAINING PLAN

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

- Legislative Changes
- State Mandated Training
- Critical Issues Training
- Department Policy
- Mentoring and Development

### 208.5 TRAINING NEEDS ASSESSMENT

The Personnel and Training Unit will conduct an annual training-needs assessment of the Department. The needs assessment will be reviewed by staff. Upon approval by the staff, the needs assessment will form the basis for the training plan for the fiscal year.

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#### 208.5.1 REQUIRED TRAINING

All sworn employees in the department are required to attend mandatory training. "Mandatory Training" is defined as:

- (a) POST mandated training;
- (b) Department mandated training;
- (c) City of Palo Alto mandated training.

The Personnel and Training Unit will notify all sworn employees of the upcoming mandatory training. Every effort will be made by the employee to attend the training. However, an employee on disability, bereavement leave, extended sick leave, or attending another mandatory training school may be excused. It is the employee's responsibility to contact their supervisor and obtain approval for the absence. The supervisor should notify the Personnel and Training Unit.

#### **208.6 TRAINING SAFETY**

It shall be the policy of the Palo Alto Police Department to conduct all training in such a manner as to promote an attitude of safety among instructors and students alike. The efforts of all personnel involved in training shall be directed toward ensuring a safe atmosphere within which a maximum training benefit can be realized.

##### 208.6.1 DEFINITIONS

The following material has been made a resource in developing this policy:

- (a) POST Guidelines for Student Safety in Certified Courses California commission on Peace Officer Standards and Training 2001;
- (b) City of Palo Alto Policy and Procedures Manual, 3-1, Safety Policy, Revised January 2000.

##### 208.6.2 PROCEDURE

###### (a) **PERSONNEL AND TRAINING RESPONSIBILITIES:**

1. The Personnel and Training Unit shall provide advance notice to prospective trainees of the anticipated physical demands and/or physical performance expectations. Additionally, the Personnel and Training Unit shall provide advance notice if specialized safety equipment will be required;
2. Instructors shall be provided with a copy of the specific safety guideline pertaining to their course of instruction prior to the commencement of their class;
3. Personnel and Training or their designee shall ensure that emergency communications (phone, radio or other means) are accessible at all training sites;
4. At least one member of the instructional staff, either directly involved in the training event or immediately available at the training site, shall be trained in first aid and CPR;

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5. When planning a training event, the Personnel and Training Unit or its designee shall identify which medical facilities and emergency services are available or subject to call in the event of an emergency or injury.
- (b) **INSTRUCTIONAL STAFF-TO-STUDENT RATIOS FOR POST CERTIFIED COURSES ONLY:**
1. Factors considered in establishing these ratios included, but were not limited to:
    - (a) The intensity or pace of the training experience;
    - (b) Student familiarity with the material;
    - (c) Characteristics of the training site;
    - (d) Injury potential;
    - (e) Active versus passive participation.
  2. For the purposes of establishing an instructional staff to student ratio, the following personnel titles and description are viewed by the Palo Alto Police Department as exerting functional supervision over students in training:
    - (a) Primary/Lead/Principal Instructor;
    - (b) Specialty Coordinator;
    - (c) Course Coordinators;
    - (d) Range Masters;
    - (e) Defensive Tactics Instructors;
    - (f) Field Training Officers;
    - (g) SWAT Team Leaders.
  3. The specific ratios are identified in each training subject file, i.e. driver's training would be a maximum of 7 instructors to 18 students.
  4. The ratio for any psycho-motors skills training is 1 instructor to 10 students.
  5. Assessment of the staff-to-student ratio will be initiated when curriculum changes are proposed or when course structure is otherwise modified.
- (c) **INSTRUCTOR RESPONSIBILITIES:** Any defensive tactics or similar training which necessitates the use of firearms shall be taught utilizing Department authorized "red guns", or functional equivalent. Under no circumstances shall training occur using authentic firearms pointed toward any individual. Additionally, all firearms, magazines, loaders and ammunition are excluded from the training area. Practice of anticipated live-fire exercises is exempt from using red guns, provided no firearm will be pointed toward any individual.



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- (a) The primary instructor or designee shall be responsible for conducting safety inspections of all trainees, their equipment and facilities used for training prior to the initiation of each training event;
  - (b) Instructors should be aware of environmental factors such as weather, air quality, and/or other elements/events and adjust the instruction as necessary;
  - (c) The primary instructor or designee shall verbally review specific safety rules with students prior to beginning subject instruction;
  - (d) Specific safety rules shall be incorporated into lesson plans. Copies of safety rules shall be distributed to students as part of the course handouts. Coordinators are responsible for giving these to the Personnel and Training Division;
  - (e) Instructors shall adhere to the expanded course outline as submitted to POST. Instructors shall also adhere to their lesson plan as approved by Personnel and Training and/or POST;
  - (f) Instructors shall advise students of their responsibility to report and/or stop unsafe actions during training;
  - (g) Instructors shall display an attitude of safety and a professional demeanor at all times.
- (d) **STUDENT RESPONSIBILITIES:**
- (a) Members of the Palo Alto Police Department shall immediately notify the course coordinator, or the Personnel and Training Lieutenant of any known pre-existing medical condition which is likely to be aggravated by, or effect performance during training;
  - (b) Members of the Palo Alto Police Department shall be required to provide evidence of medical or physical limitations for training if the instructor questions his or her ability to perform safely;
  - (c) Members of the Palo Alto Police Department shall immediately notify a member of the training staff of any injury sustained during training;
  - (d) Members of the Palo Alto Police Department are responsible for adhering to all safety requirements of individual courses;
  - (e) Members of the Palo Alto Police Department will not consume any alcoholic beverages before or during training; or take any medication that may adversely affect responsible decision making;
  - (f) Members or officers of allied agencies participating as students in a Palo Alto Police Department sponsored training course will adhere to the standards delineated in this policy.

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- (e) **RESPONSE TO INJURIES** - In the event of an injury, the following actions shall be taken as necessary:
- (a) Render first aid;
  - (b) Obtain appropriate medical assistance;
  - (c) Members of the Palo Alto Police Department who sustain an injury which requires treatment by a physician must obtain a medical release before they will be allowed to resume training;
  - (d) Notify the Personnel and Training Unit immediately;
  - (e) Investigate and complete an injury report using the appropriate reporting form(s). The Personnel and Training Unit Lieutenant may delegate the investigation when appropriate.

### **208.7 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 vacation
  - 3. Sick leave
  - 4. Physical limitations preventing the employee's participation.
  - 5. Emergency situations
- (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. Make arrangements through his/her supervisor and the Personnel and Training Lieutenant to attend the required training on an alternate date.

### **208.8 SIMUNITIONS TRAINING POLICY**

The Palo Alto Police Department will utilize the FX Marking Cartridge manufactured by Simunition for scenario training. The training will provide realistic situations and prove beneficial in tactical training methods and weapons skills. The training is designed to either train or test officer's knowledge of department policy/procedure, reaction to threat/danger, or ability to be safe and survive confrontations.

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### 208.8.1 DEFINITION

FX Marking Cartridge is a non-lethal live training ammunition available in a variety of colors. Calibers of 9mm and .38 are available. The round has a reduced noise signature so that hearing protection is not needed. It has a reduced energy design so that it can be used on live targets. It cleans up easily. It has sufficient recoil to provide realism. It's effective accuracy is 7-10 yards in handguns, and 20 meters in longer guns. The design tactical accuracy is 6 inches at 25 feet.

### 208.8.2 SAFETY MEASURES/GUIDELINES

Safety is paramount in scenario training. Proper and sound safety practices are mandatory when the FX Marking Cartridge is utilized. The following safety measures/guidelines will be followed:

- (a) The use of protective equipment is mandatory. It shall include full-face mask, throat protection, and groin protection. Optional equipment, but highly recommended are gloves, hard athletic style cup, and clothing to cover the skin (Eye protection should be tested and able to withstand velocities in excess of 400 f.p.s.).
- (b) Students should wear the clothing and equipment that they normally wear during their duty assignments. Additionally, the training artificialities such as the groin, face, eye, and throat protection mentioned above should be worn on top of normal duty clothing and equipment.

Role players' safety is of extreme importance and they should be as protected from blunt trauma and from FX projectile impact as possible. A role player should not be injured due to a lack of or improper use of protective clothing and equipment.

### 208.9 SCENARIO DEVELOPMENT/TRAINING

Scenario based training involves placing students in situations that simulate actual conditions normally found in their working environment. The objective of the scenario should either be to teach a response to a situation or test a response to a situation.

- (a) Each Scenario developed will have the following mandatory components addressed:
  1. Personnel;
  2. Training Location;
  3. Equipment;
  4. Training Objective;
  5. Briefings.
- (b) Minimum Recommended Personnel - The following personnel are deemed as the minimum requirement for all scenario training:
  1. **Training Safety Officer (TSO)** - one person whose sole task is to insure the safety of all scenario personnel;

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2. **Training Officer in Charge (OIC)** - the person who is in charge of establishing (setting up) and running the scenarios. There may be assistant OIC's if there are several scenario's running;
  3. **Role Player(s) Student Trainee** - the student trainee should arrive at the training scene with a positive attitude. He/she is also responsible for the training environment safety;
  4. Other personnel could include additional training staff personnel, depending on the complexity of the scenario training. A Camera Operator, medical personnel, range guards (control entry and exit of the training area), administrators and legal representatives;
  5. VIP's that are present to observe must follow all safety rules; including the rules governing protective gear. VIP's are not allowed to interfere with the training environment;
  6. In general, photographs and video recordings of the training are prohibited. However, the Personnel and Training Unit may elect to video- tape the training for training purposes only.
- (c) **Training Sites** - All training sites must be comprised of three definitive zones. They are as follows:
1. **Unsafe Zone:** this zone contains all live lethal weapons, rounds, knives etc.;
  2. **Semi Safe Zone:** this zone is free from impact of the safe zone and separated by a physical barrier from the safe zone. This zone houses all briefings, gear storage, FX marking cartridge storage, etc.;
  3. **Safe Zone:** This is the zone that the actual training takes place. No one enters this zone w/ out a safety check.
- (d) **EQUIPMENT** - The OIC is responsible for ensuring all of the necessary equipment is present for the scenario training. This equipment includes but is not limited to:
1. Safety equipment;
  2. Training aids;
  3. Administrative items; and
  4. Scenario Information Cards. For a complete list of equipment needs, consult a Department Simunition Instructor.
- (e) **TRAINING OBJECTIVE**
1. **The Primary Training Objective (PTO)** is the concise statement, which defines the intent and the overall methodology of the training session. It should state whether or not the session is testing or training. If it is testing, the student should have been

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taught the proper response previously. The primary training objective should relate directly to the student's line of work.

2. **The Student Training Objectives (STO)**, are the teaching/learning points to be covered in the scenario. There may be many or there may just be one. They must be identified to the student prior to the training. They must be prioritized to allow for proper time management and they must be included in the instructor information cards to provide consistency and continuity in the training program.
- (f) **BRIEFINGS** - There are essentially three different types of briefings that occur before, during, and after the scenario training. They are as follows:
1. **Safety Briefing** - Prior to the beginning of the training scenario, the TSO is required to discuss safety issues. This includes overall safety issues, a medical plan, and general firearm safety issues. All participants should be present for this briefing.
  2. **Evolution Briefing** - The OIC provides the students with an evolution briefing in order to explain to the students what to expect. Evolution briefings should provide planning information which facilitates the efficiency and quality of the training session, however, they do not cover specific information about the scenario.
  3. **DEBRIEFING** - A debriefing should be conducted right away, not at the end of the day, unless the scenario is video taped. The student, role player, OIC, TSO, and camera operator should be included. Regardless of the debriefing method, staff should always be close enough to the students to physically stop a student from becoming over zealous, hurting themselves, or from brutalizing a role player during training. Staff should not change the course of the training scenario by being close to the action.

## **Email/Personal Mail/Telephone Usage/Voicemail**

### **212.1 PURPOSE AND SCOPE**

The purpose of this policy is to establish guidelines for the proper use and application of the Department's electronic mail (email) system by employees of this department. E-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 e-mail 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.

### **212.2 E-MAIL RIGHT OF PRIVACY**

All e-mail 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 e-mail system or that is stored on any department system.

The e-mail system is not a confidential system since all communications transmitted on, to or from the system are the property of the Department. Therefore, the e-mail 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 e-mail. Employees using the Department's e-mail system shall have no expectation of privacy concerning communications utilizing the system.

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

### **212.3 PROHIBITED USE OF E-MAIL**

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

E-mail messages addressed to the entire department are 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 Captain. Personal advertisements are not acceptable.

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 e-mail, name and/or password by others.

### **212.4 MANAGEMENT OF E-MAIL**

Because the e-mail system is not designed for long-term retention of messages, e-mail that the employee desires to save or that becomes part of an official record should be printed and/or stored

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in another database. Users of e-mail are solely responsible for the management of their mailboxes. Messages should be purged manually by the user at least once per week. All messages in excess of one month will be deleted at regular intervals from the server computer.

#### **212.5 TELEPHONE USAGE**

The Palo Alto Police Department is not expected to absorb the costs associated with personal telephone calls or the receiving and distribution of personal mail. However, it is understood that employees may need to make personal calls on occasions while on-duty. If City telephones are used for personal reasons, the City shall be reimbursed for the cost of the personal call. However, the prior described situation is an exception; the policy of this Department is that all telephone calls and all correspondence directed to the Department will be of a business nature.

##### **212.5.1 PROCEDURE**

When it is necessary to use the City telephone system for personal calls, the user shall reimburse the City according to the following procedure:

- (a) The phone bill will be distributed to each division monthly. The division captain/coordinator will circulate the phone bill to each employee;
- (b) Employees shall identify their personal phone calls and complete a Telephone Use Reimbursement form listing the name, the number from which the call was made and the cost. Telephone Use Reimbursement forms are located with the other forms in the Report Writing Room;
- (c) The total cost of personal phone calls should be paid by check, unless the amount is under one dollar (\$1.00), written to the City of Palo Alto. Those bills under one-dollar (\$1.00), accompanied with a Telephone Use Reimbursement Form, should be paid in-person at the Revenue Collection counter;
- (d) The Telephone Use Reimbursement form, together with a check, should be routed to the Division Captain/Coordinator, who will forward it to revenue collections.

#### **212.6 CITY CELLULAR TELEPHONES**

The Palo Alto Police Department provides cellular telephones or personal digital assistants (PDA's) to personnel in specialty assignments or positions which necessitate the need for this type of equipment to enhance their effectiveness and efficiency. The Department has established rate plans for each individual based on the "business need" for the respective assignment or position.

##### **212.6.1 PERSONAL CALLS ON CITY CELLULAR PHONES**

It is understood employees may need to make personal calls on occasions while on-duty. However, the use of City issued telephones for non-business related calls that bring about billing overages outside of the rate plan will result in the employee having to reimburse the City for personal calls that may have contributed to the overage.

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Employees who need to make personal calls on their issued cellular phones are required to obtain their supervisor's approval.

#### 212.6.2 HANDS FREE DEVICES

California Law prohibits the use of cellular telephones by drivers unless the driver is using a hands-free device.

Although emergency personnel are exempt from the new "hands-free law" requiring the use of "hands-free" devices for drivers using a cellular phone or PDA, the Department intends to comply with the new law and requires all personnel comply with the following:

- (a) Hands-free devices shall be used any time a personal or City issued cellular phone/PDA is used while driving a City vehicle.
- (b) Use of a hands-free device, while encouraged, is not required by an emergency services professional using a wireless telephone while operating an authorized emergency vehicle, in the course and scope of his or her duties. (California Vehicle Code Section 23123)
- (c) The use of over-the-ear hands-free devices will be prohibited when driving department vehicles. Using a hands-free device while driving does not eliminate the distraction that comes with cellular telephones. Talking on the phone, dialing and hanging up the phone create a distraction while driving. Whenever possible, department personnel should restrict the use to matters of an urgent nature, exercise caution when using cellular telephones while driving and where practical, stop the vehicle at an appropriate location to complete the call.

#### 212.6.3 OFFICIAL USE

The use of personal communication devices may be appropriate in the following situations:

- (a) Barricaded suspects
- (b) Hostage situations
- (c) Mobile Command Post
- (d) Catastrophic disasters, such as plane crashes, earthquakes, floods, etc.
- (e) Major political/community events
- (f) Investigative stakeouts where regular phone usage is not practical
- (g) Emergency contact with outside agency or outside agency field unit
- (h) When immediate communication is needed and the use of the radio is not appropriate and other means are not readily available.
- (i) Calls that must be made immediately and where the use of a hard line telephone would be untimely or not suitable for the situation.



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#### 212.6.4 PROCEDURE

To ensure compliance with established rate plans and ensure personal use of City issued equipment does not create additional cost to the City, the following procedure shall be adhered to:

- (a) The monthly phone bill will be distributed to each division coordinator. The Coordinator is responsible for identifying any overages or discrepancies.
- (b) Employees required to reimburse the City for personal calls resulting from a rate plan overage shall complete a Telephone Use Reimbursement form listing the name, number from which the call was made, and the cost. The Telephone Use Reimbursement forms are located with the other forms in the Report Writing Room.
- (c) The total cost of personal phone calls should be paid by check written to the City of Palo Alto, unless the amount is under one dollar (\$1.00). Those bills under one dollar (\$1.00), accompanied with a Telephone Reimbursement form, should be paid in person at the Revenue Collection counter.
- (d) The Telephone Reimbursement form, together with a check, should be routed to the Division Coordinator, who will forward it to Revenue Collections.

#### 212.6.5 INDIVIDUALLY OWNED CELLULAR PHONES

Employees may carry their own cell phone while on duty subject to the following conditions:

- (a) Carrying an individually-owned cell phone is optional.
- (b) The device shall be purchased, used and maintained at the employees expense.
- (c) Damage or loss of personal device will be the responsibility of the employee.

#### **212.7 PERSONAL MAIL**

Receiving personal mail at the Police Department address is generally prohibited.

#### **212.8 EMPLOYEE MAIL BOXES**

Employees are required to visibly check their mailbox on each workday. Employee mailboxes should be kept neat and orderly. Employees should purge old documents in order to maintain room for new material.

#### **212.9 VOICE MAIL**

##### 212.9.1 PURPOSE AND SCOPE

The Voice Mail policy describes and sets the standards for the way members of the Police Department use voice mail technology. In using the voice mail system, the Police Department will place a strong emphasis on the needs of the public and the public's ability to reach police employees as quickly as possible. Voice mail technology is intended to remove, rather than erect barriers. Consequently, the Police Department's voice mail system is designed to be used in a manner that will enable callers to communicate with a police employee if they so desire.

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#### 212.9.2 SYSTEM WIDE STANDARDS

The voice mail system will be available for use 24 hours a day to accommodate the public for key police services and allow employees to direct calls to voice mail during non-business hours.

- (a) Emergency service telephone numbers, such as the 911 lines or 329-2413, shall not be directed to the voice mail system.
- (b) In order to promote quality customer service, complaints from the public regarding the voice mail system will be handled in accordance with Policy Manual § 1020 "Personnel Complaint Procedures."
- (c) Calls answered by voice mail during business hours shall give the caller the opportunity to choose between leaving a message or talking with a staff person.
- (d) Broadcast messages whether City or Police Department wide shall require Department head approval.
- (e) The City Manager will have the final decision as to who may have a voice mail box.

#### 212.9.3 DEPARTMENTAL STANDARDS

- (a) Information about special and ongoing police events may be made available to the public via the voice mail system, especially when a high volume of telephone calls is anticipated.
- (b) Each division will have at least one number that is always answered by a person during the division's normal business hours. These numbers shall not be forwarded to an automated attendant during these hours. During non-business hours, it is permissible to have a voice mail message handled by the automated attendant features. Divisions that cannot assure constant staffing of the telephone number (due to absences, work-related activities, etc.) must make arrangements with other divisions to provide adequate coverage when Departmental clerical assistants are absent or unavailable.
- (c) The voice mail system will require daily supervision on the part of each division.

#### 212.9.4 INDIVIDUAL STANDARDS

- (a) Upon the approval of the Division Captain/Coordinator, telephone numbers assigned to an individual employee may be directed to voice mail when that person is not able to answer the telephone.
- (b) Individuals who are assigned a mail box will be responsible for checking their mail box on work days for messages. Messages left by callers shall be answered promptly. At a minimum, individuals shall check their voice mail box at the beginning and end of each workday.
- (c) Voice mail box owners shall keep their outgoing messages professional, timely, and current. Greetings shall not include nicknames, jargon, background noises or other inappropriate messages. During periods of extended absences, box owners should arrange to have mail box coverage or an appropriate announcement directing the caller elsewhere.

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#### 212.9.5 PUBLIC TELEPHONE DIRECTORY LISTINGS

The telephone number published as the Police Department's main public information line (329-2406 or 2407), which are answered by the front desk personnel, shall always be answered by a staff member during normal business hours. The telephone numbers for specific informational lines will be published to allow callers direct access to the voice mail system for frequently requested information.

The Government section of the public telephone directory shall indicate which telephone numbers will be answered by the voice mail system.

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## Administrative Communications

### 214.1 PURPOSE AND SCOPE

Administrative communications of this department are governed by the following policies.

### 214.2 PERSONNEL ORDER

Personnel Order may be issued periodically by the Chief of Police to announce and document all promotions, transfers, hiring of new personnel, separations, personnel and group commendations, or other changes in status.

### 214.3 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.

### 214.4 SURVEYS

All surveys made in the name of the Department shall be authorized by the Chief of Police, Assistant Police Chief, a Division Captain, or a Department Coordinator.

## Concealed Weapon License

### 218.1 PURPOSE AND SCOPE

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

#### 218.1.1 APPLICATION OF POLICY

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

### 218.2 POLICY

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

### 218.3 QUALIFIED APPLICANTS

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

- (a) Be a resident of the City of Palo Alto (Penal Code § 26150; Penal Code § 26155).
- (b) Be at least 21 years of age (Penal Code § 29610).
- (c) Fully complete an application that will include substantial personal information. Much of the information in the application may be subject to public access under the Public Records Act.
- (d) Be free from criminal convictions that would disqualify the applicant from carrying a firearm. Fingerprints will be required and a complete criminal background check will be conducted.
- (e) Be of good moral character (Penal Code § 26150; Penal Code § 26155). The applicant shall provide at least three letters of character reference.
- (f) Show good cause for the issuance of the license (Penal Code § 26150; Penal Code § 26155).
- (g) Pay all associated application fees. These fees are set by statute and may not be refunded if the application is denied.
- (h) Provide proof of ownership or registration of any firearm to be licensed.
- (i) Be free from any psychological conditions that might make the applicant unsuitable for carrying a firearm (Penal Code § 26190).
- (j) Complete required training (Penal Code § 26165).

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### **218.4 APPLICATION PROCESS**

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

#### **218.4.1 PHASE ONE (TO BE COMPLETED BY ALL APPLICANTS)**

- (a) Any individual applying for a license to carry a firearm shall first fully complete a California Department of Justice (DOJ) application to be signed under penalty of perjury. Any applicant who provides false information or statements on the application will be removed from further consideration and may be prosecuted for a criminal offense (Penal Code § 26180).
  - 1. In the event of any discrepancies in the application or background investigation, the applicant may be required to undergo a polygraph examination, at no cost to the applicant.
  - 2. If an incomplete application package is received, the Chief of Police or authorized designee may do any of the following:
    - (a) Require the applicant to complete the package before any further processing.
    - (b) Advance the incomplete package to phase two for conditional processing pending completion of all mandatory conditions.
    - (c) Issue a denial if the materials submitted at the time demonstrate that the applicant would not qualify for a license to carry a firearm even if the package was completed (e.g., not a resident, disqualifying criminal conviction, absence of good cause).
- (b) At the time the completed application is submitted, the applicant shall submit a check made payable to the California Department of Justice for the required California DOJ application fee, along with a separate check made payable to the City of Palo Alto for a nonrefundable 20 percent of the application fee to cover the cost of processing the application (Penal Code § 26190).
  - (a) Additional fees may be required for fingerprinting, training or psychological testing, in addition to the application fee.
  - (b) Full payment of the remainder of the application fee will be required upon issuance of a license.
  - (c) Payment of related fees may be waived if the applicant is a duly appointed reserve peace officer as defined in Penal Code § 830.6 (a) or (b) (Penal Code § 26170).
- (c) The applicant shall be required to submit to fingerprinting and a complete criminal background check by the California DOJ. A second set of fingerprints may be required for retention in department files. Two recent passport-size photos (2 inches by 2 inches) of the applicant shall be submitted for department use. No person determined to fall within a prohibited class described in Penal Code § 29800, Penal Code § 29900, Welfare and

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Institutions Code § 8100 or Welfare and Institutions Code § 8103 will be issued a license to carry a firearm. A license shall not be issued if the California DOJ determines that the applicant is prohibited by state or federal law from possessing, receiving, owning or purchasing a firearm (Penal Code § 26195).

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

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

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

#### 218.4.2 PHASE TWO

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

- (a) Upon successful completion of phase one, the applicant shall be scheduled for a personal interview with the Chief of Police or authorized designee. During this stage, there will be further discussion of the applicant's statement of good cause and any potential restrictions or conditions that might be placed on the license.
  - 1. The determination of good cause should consider the totality of circumstances in each individual case.
  - 2. Any denial for lack of good cause should be rational, articulable and not arbitrary in nature.
  - 3. The Department will provide written notice to the applicant as to the determination of good cause (Penal Code § 26202).
- (b) The Chief of Police may, based upon criteria established by the Chief of Police, require that the applicant be referred to an authorized psychologist used by the Department for psychological testing. The cost of such psychological testing (not to exceed \$150) shall be paid by the applicant. The purpose of any such psychological testing is intended only to identify any outward indications or history of psychological problems that might render the applicant unfit to carry a firearm. This testing is not intended to certify in any other respect that the applicant is psychologically fit. If it is determined that the applicant is not a suitable candidate for carrying a firearm, the applicant shall be removed from further consideration (Penal Code § 26190).
- (c) The applicant shall complete a course of training approved by the agency, which complies with Penal Code § 26165. The applicant will not be required to complete and pay for any

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training courses prior to any determination of good cause (Penal Code § 26165; Penal Code § 26202).

- (d) The applicant shall submit any firearm to be considered for a license to the Rangemaster or other departmentally authorized gunsmith, at no cost to the applicant, for a full safety inspection. The Chief of Police reserves the right to deny a license for any firearm that has been altered from the manufacturer's specifications or that is unsafe (Penal Code § 31910).
- (e) The applicant shall successfully complete a firearms safety and proficiency examination with the firearm to be licensed, to be administered by the department Rangemaster, or provide proof of successful completion of another departmentally approved firearms safety and proficiency examination, including completion of all releases and other forms. The cost of any outside inspection/examination shall be the responsibility of the applicant.

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

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

### **218.5 LIMITED BUSINESS LICENSE TO CARRY A CONCEALED FIREARM**

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

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

- (a) The applicant physically spends a substantial period of working hours in the applicant's principal place of employment or business within the City of Palo Alto (Penal Code § 26150).
- (b) Such a license will be valid for a period not to exceed 90 days from the date of issuance (Penal Code § 26220).
- (c) The applicant shall provide a copy of the license to the licensing authority of the city or county in which the applicant resides (Penal Code § 26220).
- (d) Any application for renewal or reissuance of such a license may be granted only upon concurrence of the original issuing authority and the licensing authority of the city or county in which the applicant resides (Penal Code § 26220).



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### **218.6 ISSUED FIREARMS PERMITS**

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

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

#### **218.6.1 LICENSE RESTRICTIONS**

- (a) The Chief of Police may place special restrictions limiting time, place, manner and circumstances under which any license shall be valid. In general, these restrictions will prohibit the licensee from:
  - 1. Consuming any alcoholic beverage while armed.
  - 2. Falsely representing him/herself as a peace officer.

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

### 218.6.2 AMENDMENTS TO LICENSES

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

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

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

### 218.6.3 REVOCATION OF LICENSES

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

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

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

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

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

#### 218.6.4 LICENSE RENEWAL

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

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

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

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

#### **218.7 DEPARTMENT REPORTING AND RECORDS**

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

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

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

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### **218.8 CONFIDENTIAL RECORDS**

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

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

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## Retired Officer CCW Endorsements

### 220.1 PURPOSE AND SCOPE

The purpose of this policy is to outline the process and conditions associated with the issuance, revocation, and denial of a concealed weapons (CCW) endorsement for retired officers of this department.

### 220.2 QUALIFIED RETIREES

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 #CCW Approved# endorsement 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, however, 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).

#### 220.2.1 QUALIFIED RETIREES FROM OTHER AGENCIES

The Palo Alto 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.
- (b) This department is in possession of the retiree's complete personnel records or can verify the retiree's honorably retired status.
- (c) The retiree is in compliance with all of the requirements of this department for the issuance of a CCW Approved endorsement.

#### 220.2.2 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).

### 220.3 MAINTAINING A CCW ENDORSEMENT

In order to maintain a #CCW Approved# endorsement on an identification card, 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 department rules and policies as well as all federal, state and local laws.

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- (c) Only be authorized to carry a concealed firearm inspected and approved by the Department.

#### **220.4 CARRYING FIREARMS OUT OF STATE**

Subject to 18 USC § 926C and the Firearms and Qualification Policy, qualified retired officers of this department may be authorized to carry a concealed weapon in other states.

Qualification requirements: If a qualified retired officer desires to carry a concealed weapon in out of state, the retired officer must qualify every year with an authorized firearm at the Palo Alto Police Department bi-annual range qualifications or at a course approved by this department at the retired officer's expense,

#### **220.5 IDENTIFICATION CARD FORMAT**

The identification card issued to any qualified and honorably retired officer shall be two inches by three inches and minimally contain the following (Penal Code § 25460):

- (a) Photograph of the retiree.
- (b) Retiree's name and date of birth.
- (c) Date of retirement.
- (d) Name and address of this department.
- (e) A stamped endorsement #CCW Approved# along with the date by which the endorsement must be renewed (not more than one year). In the case in which a CCW endorsement has been denied or revoked, the identification card shall be stamped #No CCW Privilege#.
- (f) If applicable, a notation that "This person is in compliance with 18 USC § 926C(d)(1)."

#### **220.6 DENIAL OR REVOCATION OF STATE CCW ENDORSEMENT**

The CCW endorsement under Penal Code § 25470 for any officer retired from this department may be denied or permanently revoked only upon a showing of good cause. Any denial or revocation under this section shall also be considered disqualification under 18 USC § 926C(d). The CCW endorsement may be immediately and temporarily revoked by the Watch Commander when the conduct of a retired peace officer compromises public safety. Good cause, if challenged, shall be determined in the following manner:

- (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) Prior to 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).

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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.
- (c) The 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#.

#### 220.6.1 WATCH COMMANDER RESPONSIBILITY

Employees who have reason to suspect a retiree's conduct has compromised public safety should notify the Watch Commander as soon as practical. The Watch Commander should take the following steps in these instances:

- (a) Take appropriate steps to promptly look into the matter.
- (b) If warranted, contact the retiree in person and advise him/her in writing of the following:
  1. The retiree's CCW endorsement is immediately and temporarily revoked.
  2. The retiree will have 15 days to request a hearing to determine whether the temporary revocation should become permanent.
  3. 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.
- (c) A current copy of Penal Code §§ 26305, 26312 and 26315 should be attached to the written notice.
- (d) In the event that personal contact with the retiree cannot be reasonably achieved in a timely manner, the Watch Commander should attempt to make the above notice of temporary suspension through another peace officer. For example, if a retiree was arrested or detained by a distant agency, the Watch Commander may request that a peace officer of that agency act as the Department's agent to deliver the written notification.

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- (e) 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).
- (f) The Watch Commander should document in a memo the investigation, the actions taken, and, if applicable, any notification made to the retiree. The memo should be forwarded to the Chief of Police.



## **Chapter 3 - General Operations**

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## Use of Force

### 300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

#### 300.1.1 DEFINITIONS

Definitions related to this policy include:

**Deadly force** - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury.

**Force** - The application of physical techniques or tactics, chemical agents or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed or restrained.

### 300.2 POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

#### 300.2.1 DUTY TO INTERCEDE

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. An officer who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

### 300.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably

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appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

### 300.3.1 USE OF FORCE TO EFFECT AN ARREST

Any peace officer may use reasonable force to effect an arrest, to prevent escape or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance on the part of the person being arrested; nor shall an officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest, prevent escape or to overcome resistance (Penal Code § 835).

### 300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include, but are not limited to:

- (a) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of drugs or alcohol.
- (e) Subject's mental state or capacity.
- (f) Proximity of weapons or dangerous improvised devices.
- (g) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (h) The availability of other options and their possible effectiveness.

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- (i) Seriousness of the suspected offense or reason for contact with the individual.
- (j) Training and experience of the officer.
- (k) Potential for injury to officers, suspects and others.
- (l) Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the officer.
- (m) The risk and reasonably foreseeable consequences of escape.
- (n) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (o) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (p) Prior contacts with the subject or awareness of any propensity for violence.
- (q) Any other exigent circumstances.

#### 300.3.3 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the person can comply with the direction or orders of the officer.
- (c) Whether the person has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

#### 300.3.4 CAROTID CONTROL HOLD

The proper application of the carotid control hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use of the carotid control hold is subject to the following:

- (a) The officer shall have successfully completed department-approved training in the use and application of the carotid control hold.
- (b) The carotid control hold may only be used when circumstances perceived by the officer at the time indicate that such application reasonably appears necessary to control a person in any of the following circumstances:
  - 1. The subject is violent or physically resisting.
  - 2. The subject, by words or actions, has demonstrated an intention to be violent and reasonably appears to have the potential to harm officers, him/herself or others.

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- (c) The application of a carotid control hold on the following individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective, or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of applying a carotid control hold:
  - 1. Females who are known to be pregnant
  - 2. Elderly individuals
  - 3. Obvious juveniles
- (d) Any individual who has had the carotid control hold applied, regardless of whether he/she was rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel and should be monitored until examined by paramedics or other appropriate medical personnel.
- (e) The officer shall inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to the carotid control hold and whether the subject lost consciousness as a result.
- (f) Any officer attempting or applying the carotid control hold shall promptly notify a supervisor of the use or attempted use of such hold.
- (g) The use or attempted use of the carotid control hold shall be thoroughly documented by the officer in any related reports.

### **300.4 DEADLY FORCE APPLICATIONS**

Use of deadly force is justified in the following circumstances:

- (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury.
- (b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes any of the following:

- 1. The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the officer or another.
- 2. The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.

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### 300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective. Officers should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

### **300.5 REPORTING THE USE OF FORCE**

Any use of force by a member of this department shall be documented promptly, completely and accurately in an appropriate report, depending on the nature of the incident. The report shall minimally include the type of force used, the reason for the force, the description of any injuries and a description of any medical treatment rendered. Additionally, a thorough explanation of the factors considered by the officer shall be included in the officer's police report. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances.

To collect data for purposes of training, resource allocation, analysis and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure or law.

#### 300.5.1 NOTIFICATION TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of a CED or control device.
- (f) Any application of a restraint device other than handcuffs, shackles or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges any of the above has occurred.

#### 300.5.2 INCIDENTS REQUIRING A SUPERVISOR'S REPORT

Use of force incidents that meet any one of the below listed criteria will be investigated and documented.

- (a) An officer strikes a blow using any physical strength or object to a subject;

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- (b) An officer uses force which causes any visible or apparent physical injury, or which results in the subject claiming he or she was injured;
- (c) An officer strikes a blow using any physical strength or object to a subject that causes any visible physical injury or which the subject complains of pain;
- (d) An officer uses physical control on a subject beyond a physical compliance hold that causes any visible physical injury or which the subject complains of pain;
- (e) An officer uses O.C./baton/ASP on any subject;
- (f) An officer delivers a Less Lethal Kinetic Energy projectile at a person;
- (g) A "Taser" application by an officer;
- (h) Any bite or injury resulting from the use of a police service dog;
- (i) Any other incident for which the supervisor/Watch Commander deems a "use of force" report is necessary.
- (j) The use or attempted use of the carotid restraint shall be thoroughly documented in a use of force report.
- (k) Any use of force where the suspect becomes unconscious.

#### 300.5.3 SUPERVISOR'S REPORT ON USE OF FORCE

The on-duty supervisor will investigate the use of force and complete the "Supervisor's Report on Use of Force" form. All relevant documents will be attached. The Supervisor's "Use of Force" report narrative should be documented in a memorandum format and contain the following headings/information:

- (a) Synopsis - A brief narrative of the incident:
- (b) Suspect Information/Statements - If the supervisor was able to obtain a statement from involved suspect, the statement should be provided.
- (c) Injures - Describe in detail any injuries suffered by the suspect, officers or any other involved subject(s).
- (d) Property Damage - Any property damage that occurred.
- (e) Involved Officer(s) and Roles - Describe actions taken by involved officers.
- (f) Investigation- Investigative steps taken.
- (g) Attachments - Any pertinent documents and attachments.
- (h) Opinions and Conclusions - A summary of the incident.

The report will be submitted prior to the end of the shift. The investigating supervisor must obtain approval from the Watch Commander if the report cannot be completed in time. The report will be routed through the chain of command for approval. The Division Captain, Assistant Police Chief and the Police Chief will conduct a final review.

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### **300.6 MEDICAL CONSIDERATION**

Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.

Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor, or if not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called #excited delirium#), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

### **300.7 SUPERVISOR RESPONSIBILITY**

When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.
- (c) When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her *Miranda* rights, the following shall apply:
  1. The content of the interview should not be summarized or included in any related criminal charges.
  2. The fact that a recorded interview was conducted should be documented in a property or other report.



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3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
  - (e) Identify any witnesses not already included in related reports.
  - (f) Review and approve all related reports.
  - (g) Determine if there is any indication that the subject may pursue civil litigation.
    1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
  - (h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

### **300.7.1 WATCH COMMANDER RESPONSIBILITY**

The Watch Commander shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

### **300.8 USE OF FORCE INCIDENTS/INTERNAL AFFAIRS INVESTIGATIONS**

At any time after a use of force incident the supervisor has reason to believe the involved officer could be facing disciplinary action, the supervisor should immediately notify the Watch Commander. The Watch Commander will consult with the Division Captain and the Personnel and Training Lieutenant. If the decision is made to conduct an Internal Affairs Investigation, the initial supervisor should not conduct any further investigation unless directed otherwise. The initial supervisor will complete as much of the "Supervisor's Report on Use of Force" Form as possible. The supervisor will then check the box on the report form indicating Administrative Investigation and forward the report form to the designated Internal Affairs Investigator.

### **300.9 TRAINING**

Officers will receive periodic training on this policy and demonstrate their knowledge and understanding.

## Use of Force Review Boards

### 302.1 PURPOSE AND SCOPE

This policy establishes a process for the Palo Alto Police Department to review the use of force by its employees.

This review process shall be in addition to any other review or investigation that may be conducted by any outside or multi-agency entity having jurisdiction over the investigation or evaluation of the use of deadly force.

### 302.2 POLICY

The Palo Alto Police Department will objectively evaluate the use of force by its members to ensure that their authority is used lawfully, appropriately and is consistent with training and policy.

### 302.3 REMOVAL FROM LINE DUTY ASSIGNMENT

Generally, whenever an employee's actions or use of force in an official capacity, or while using department equipment, results in death or very serious injury to another, that employee will be placed in a temporary administrative assignment pending an administrative review. The Chief of Police may exercise discretion and choose not to place an employee in an administrative assignment in any case.

### 302.4 REVIEW BOARD

The Use of Force Review Board will be convened when the use of force by a member results in very serious injury or death to another.

The Use of Force Review Board will also investigate and review the circumstances surrounding every discharge of a firearm, whether the employee was on- or off-duty, excluding training or recreational use.

The Chief of Police may request the Use of Force Review Board to investigate the circumstances surrounding any use of force incident.

The Administrative Services Division Captain will convene the Use of Force Review Board as necessary. It will be the responsibility of the Division Captain or supervisor of the involved employee to notify the Administrative Services Division Captain of any incidents requiring board review. The involved employee's Division Captain or supervisor will also ensure that all relevant reports, documents and materials are available for consideration and review by the board.

#### 302.4.1 COMPOSITION OF THE BOARD

The Administrative Services Division Captain should select five Use of Force Review Board members from the following, as appropriate:

- Representatives of each division
- Commanding officer in the involved member's chain of command

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- Personnel and Training Lieutenant
- Non-administrative supervisor
- A peer officer
- A sworn peace officer from an outside law enforcement agency
- Department instructor for the type of weapon, device or technique used

The senior ranking command representative who is not in the same division as the involved employee will serve as chairperson.

### 302.4.2 RESPONSIBILITIES OF THE BOARD

The Use of Force Review Board is empowered to conduct an administrative review and inquiry into the circumstances of an incident.

The board members may request further investigation, request reports be submitted for the board's review, call persons to present information and request the involved employee to appear. The involved employee will be notified of the meeting of the board and may choose to have a representative through all phases of the review process.

The board does not have the authority to recommend discipline.

The Chief of Police will determine whether the board should delay its review until after completion of any criminal investigation, review by any prosecutorial body, filing of criminal charges the decision not to file criminal charges, or any other action. The board should be provided all relevant available material from these proceedings for its consideration.

Absent an express waiver from the employee, no more than two members of the board may ask questions of the involved employee (Government Code § 3303). Other members may provide questions to these members.

The review shall be based upon those facts which were reasonably believed or known by the officer at the time of the incident, applying any legal requirements, department policies, procedures and approved training to those facts. Facts later discovered but unknown to the officer at the time shall neither justify nor call into question an officer's decision regarding the use of force.

Any questioning of the involved employee conducted by the board will be in accordance with the department's disciplinary procedures, the Personnel Complaints Policy, the current collective bargaining agreement and any applicable state or federal law.

The board shall make one of the following recommended findings:

- (a) The employee's actions were within department policy and procedure.
- (b) The employee's actions were in violation of department policy and procedure.

A recommended finding requires a majority vote of the board. The board may also recommend additional investigations or reviews, such as disciplinary investigations, training reviews to

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consider whether training should be developed or revised, and policy reviews, as may be appropriate. The board chairperson will submit the written recommendation to the Chief of Police.

The Chief of Police shall review the recommendation, make a final determination as to whether the employee's actions were within policy and procedure and will determine whether any additional actions, investigations or reviews are appropriate. The Chief of Police's final findings will be forwarded to the involved employee's Division Captain for review and appropriate action. If the Chief of Police concludes that discipline should be considered, a disciplinary process will be initiated.

At the conclusion of any additional reviews, copies of all relevant reports and information will be filed with the Chief of Police.

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## Handcuffing and Restraints

### 306.1 PURPOSE AND SCOPE

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

### 306.2 POLICY

The Palo Alto 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.

### 306.3 USE OF RESTRAINTS

Only members who have successfully completed Palo Alto 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:

- The circumstances or crime leading to the arrest.
- The demeanor and behavior of the arrested person.
- The age and health of the person.
- Whether the person is known to be pregnant.
- 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.
- Whether the person has any other apparent disability.

#### 306.3.1 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.

#### 306.3.2 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 or waist chains.

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

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determination that such restraints are necessary for the safety of the arrestee, officers or others (Penal Code § 3407, Penal Code § 6030).

### **306.3.3 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.

### **306.3.4 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.

### **306.4 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 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 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 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.

### **306.5 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 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 should ensure that the spit hood 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

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distorted vision on the part of the individual. Officers should avoid comingling individuals wearing spit hoods with other detainees.

Spit hoods 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 hood, the spit hood 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 hood.

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

### **306.6 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.

### **306.7 APPLICATION OF LEG RESTRAINT DEVICES**

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 restraint, 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).

#### **306.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS**

When applying leg restraints the following guidelines should be followed:

- (a) If practicable, officers should notify a supervisor of the intent to apply the leg restraint device. In all cases, a supervisor shall be notified as soon as practicable after the application of the leg restraint device.

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- (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 in the leg restraint. 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) When 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).

### **306.8 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) How the suspect was transported and the position of the suspect.
- (c) Observations of the suspect's behavior and any signs of physiological problems.
- (d) Any known or suspected drug use or other medical problems.



## Control Devices and Techniques

### 308.1 PURPOSE AND SCOPE

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

### 308.2 POLICY

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

### 308.3 ISSUING, CARRYING AND USING CONTROL DEVICES

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

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

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

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

### 308.4 RESPONSIBILITIES

#### 308.4.1 WATCH COMMANDER RESPONSIBILITIES

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

#### 308.4.2 RANGEMASTER RESPONSIBILITIES

The Staff Assistant, Rangemaster or the designated instructor for a particular control device shall control the inventory and issuance of all control devices and shall ensure that all damaged, inoperative, outdated or expended control devices or munitions are properly disposed of, repaired or replaced.

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

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### **308.4.3 USER RESPONSIBILITIES**

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

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

### **308.5 BATON GUIDELINES**

When based upon the circumstances perceived by the officer, such force reasonably appears justified and necessary to result in the safe control of the suspect the use of the baton is authorized.

Officers are authorized to use the the following batons:

- Rapid Containment Baton (RCB)
- ASP Collapsible Baton
- Long Baton for riot control

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

The Rapid Containment Baton or Asp Collapsible Baton shall be carried by all sworn, uniformed personnel while on-duty. When carrying a baton, uniformed personnel shall carry the baton in its authorized holder on the equipment belt or load bearing vest. The addition of the TASER X26 does not preclude officers from carrying OC spray.

Plainclothes and non-field personnel may carry the baton as authorized and in accordance with the needs of their assignment or at the direction of their supervisor.

Officers will be provided training on the use of the Rapid Containment Baton and the Asp Collapsible Baton during the defensive tactics training provided every two years. Officer must show proficiency using the authorized baton that they choose to carry.

### **308.6 TEAR GAS GUIDELINES**

Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Watch Commander, Incident Commander or Crisis Response Unit Commander may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.

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

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### **308.7 OLEORESIN CAPSICUM (OC) GUIDELINES**

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

All uniformed personnel shall carry the OC spray device in its holster on the equipment belt or load bearing vest. The addition of the TASER X26 does not preclude officers from carrying OC spray. Plainclothes and non-field personnel may carry OC spray as authorized, in accordance with the needs of their assignment or at the direction of their supervisor. Canisters involved in any type of malfunction or damage shall be turned in to the Staff Assistant for exchange.

#### **308.7.1 PEPPER PROJECTILE SYSTEMS**

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

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

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

#### **308.7.2 TREATMENT FOR OC SPRAY EXPOSURE**

Persons who have been sprayed with or otherwise affected by the use of OC should be promptly provided with clean water to cleanse the affected areas. Paramedics shall be requested immediately to treat the exposure and the subject shall be transported to the emergency room for medical clearance.

### **308.8 POST-APPLICATION NOTICE**

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

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Information regarding the method of notice and the individuals notified should be included in related reports.

### **308.9 KINETIC ENERGY PROJECTILE GUIDELINES**

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

#### **308.9.1 DEPLOYMENT AND USE**

Only department-approved kinetic energy munitions shall be carried and deployed. Approved munitions may be used to compel an individual to cease his/her actions when such munitions present a reasonable option.

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

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

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

#### **308.9.2 DEPLOYMENT CONSIDERATIONS**

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

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

A verbal warning of the intended use of the device should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances.

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The purpose of the warning is to give the individual a reasonable opportunity to voluntarily comply and to warn other officers and individuals that the device is being deployed.

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

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

### **308.9.3 SAFETY PROCEDURES**

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

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

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

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

### **308.10 TRAINING FOR CONTROL DEVICES**

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

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

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### **308.11 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES**

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

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## Conducted Energy Weapon

### 309.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of a TASER.

### 309.2 POLICY

The TASER is intended to control a violent or potentially violent individual, while minimizing the risk of serious injury. The appropriate use of a TASER should result in fewer serious injuries to officers and suspects.

Definitions:

Activation - Depressing the trigger of a TASER causing the TASER to arc or fire probes.

Deployment - Removal of the TASER from the holster.

### 309.3 ISSUANCE AND CARRYING A TASER

Only officers who have successfully completed department-approved training shall be authorized to carry a TASER. The use of a TASER shall be subject to this policy and Palo Alto Police Department Policy 300, pertaining to the Use of Force Reporting.

- (a) Officers shall only use a TASER and cartridges that have been issued by the Department.
- (b) Uniformed officers shall wear the TASER in an approved holster on their duty belt or in a drop holster extending from their duty belt. The TASER holster shall be on the officer's weak-hand side. TASERS shall not be worn in a load bearing vest.
- (c) Plainclothes officers may carry a TASER when appropriate (situation might include search/arrest warrant service and in-progress calls for service) and in conformance with section b.
- (d) Officers carrying a TASER shall perform a spark test on the unit prior to going into service.
- (e) Officers shall carry the TASER on their weak-hand side in a position where it can be readily deployed with their weak (non-firearm) hand.
- (f) Whenever practicable, officers should carry a total of two cartridges on their person when carrying the TASER.
- (g) Officers are responsible for ensuring that their issued TASER is properly maintained and in good working order.
- (h) Absent exigent circumstances, the TASER shall be deployed with the weak (non-firearm) hand.
- (i) Unless lethal force is justified, officers should never hold both a firearm and the TASER at the same time.
- (j) Officers deploying a TASER whenever possible will have another officer present as a cover officer who is capable of providing immediate assistance.

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- (k) Full time sworn officers shall carry the TASER X2. Reserve officers shall carry the TASER X26.

### **309.4 VERBAL AND VISUAL WARNINGS**

A verbal warning of the intended use of the TASER should precede its activation, unless it would otherwise endanger the safety of officers, or when it is not practicable due to the circumstances.

The purpose of the warning is to:

- (a) Provide the individual with a reasonable opportunity to voluntarily comply.
- (b) Provide other officers and individuals with a warning that a TASER may be activated.

The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision.

The fact that a verbal, visual and/or other warning was given or the reasons it was not given shall be documented by the officer activating a TASER in any related reports.

### **309.5 USE OF THE TASER**

Authorized personnel may use the TASER when circumstances known to the officer at the time indicate that such activation is reasonable to control a person who poses an immediate threat of bodily injury.

The officer must be able to articulate a reasonable belief that other available options appeared ineffective, impractical or would have presented a greater danger to the officer, the subject or others.

A subject fleeing, walking away, or passively resisting should not be the sole justification for activating the TASER. When using the TASER against a fleeing suspect, the severity of the offense and the immediate threat posed by a suspect should be the primary considerations when deciding whether to activate the TASER.

The TASER will not be used on subjects who are passively resisting. Examples of passive resistance includes, but is not limited to persons who remain limp or in a prone position, or seated demonstrators who are not complying with verbal commands.

#### **309.5.1 APPLICATION OF THE TASER**

The use of the TASER on certain individuals should generally be avoided unless the officer reasonably believes that the need to control the individual outweighs the foreseeable risk of injury.

This includes:

- (a) Obviously pregnant females.
- (b) Elderly individuals, infirm or obvious juveniles.
- (c) Individuals with obviously low body mass.
- (d) Individuals who are handcuffed or otherwise restrained.



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- (e) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.
- (f) Individuals whose position or activity may result in collateral injury . Examples include: Falls from an elevated position or platform, near standing water, running or under momentum, operating a vehicle, motorcycle, bicycle or operating machinery.

### 309.5.2 TARGETING CONSIDERATIONS

Reasonable efforts should be made to target lower center mass and avoid the head, neck, chest and groin.

The TASER should only be activated when its operator can safely approach the subject within the operational range of the device. Although the TASER is generally effective in controlling most individuals, officers should be aware that the device may not achieve the intended results and be prepared with other options.

### 309.5.3 MULTIPLE APPLICATIONS OF THE TASER

Officers should activate the TASER for only one standard cycle (5 seconds) and then evaluate the situation before activating any subsequent cycles. Each individual activation of the TASER is a separate use of force and should be justified as such. Multiple activations of the TASER should be avoided unless the officer reasonably believes that the need to control the individual outweighs the potentially increased risk posed by multiple activations.

If the first activation of the TASER appears to be ineffective in gaining control of an individual, the officer should consider certain factors before additional activations, including:

- (a) Whether or not the probes are making proper contact.
- (b) Whether the individual has the ability and has been given a reasonable opportunity to comply.
- (c) Whether verbal commands, other options or tactics may be more appropriate.

This however, shall not preclude any officer from deploying multiple, reasonable activations of the TASER on an individual. The TASER normally should not be activated more than three 5-second cycles, absent exigent circumstances. The TASER should be activated for the shortest period possible in order to take a person into custody.

Officers should generally not intentionally activate more than one TASER at a time against a single suspect.

### 309.5.4 ACTIONS FOLLOWING DEPLOYMENTS

Officers shall summon medical personnel and continually monitor the subject until they can be evaluated.

Officers shall notify a supervisor of all TASER activations including accidental or unintentional activations. AFID (anti-felon identification) tags, the expended cartridge, along with both probes

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and wires, should be collected and submitted into evidence. The cartridge serial number should be noted and documented on the evidence paperwork. The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin. For unintentional or accidental activations, the expended cartridge along with the probes and wires should be properly disposed.

For report writing purposes and supervisory response, exceptions to activation notifications are Department approved training and spark/maintenance tests.

### 309.5.5 DANGEROUS ANIMALS

The TASER may be deployed against an animal as part of a plan to deal with a potentially dangerous animal, such as a dog, if the animal reasonably appears to pose an imminent threat of bodily injury and alternative methods are not reasonably available or would likely be ineffective.

### 309.5.6 OFF-DUTY CONSIDERATIONS

Unless otherwise approved, officers are not authorized to carry the department issued TASER while off-duty.

While off-duty, officers shall ensure that the TASER is secured in a manner that will keep the device inaccessible to others.

## **309.6 DOCUMENTATION**

All TASER activations shall be documented in a police report. Threatened use shall be documented via CAD and additionally noted in any applicable police report.

### 309.6.1 REPORTS

The downloaded TASER activation report will be included with the original police report. Police reports documenting TASER activations shall include the following:

- (a) The date, time, location, and type of call
- (b) Time of arrival
- (c) Observations of suspect actions and circumstances justifying application of the TASER, including weapons possessed, level of aggression, suspect statements, distances between the suspect and threatened officers or citizens, etc.
- (d) Documentation of warnings given prior to TASER activation or reasons those warnings were not given.
- (e) Documentation of the use of laser dot.
- (f) Officer's justification of reasonableness for force used for the initial activation and any subsequent activation.
- (g) Method of use of the TASER, range at which the TASER was activated, and number of activations.
- (h) Serial number and model of the TASER and serial number of any cartridge(s) used in the incident.

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- (i) Location and description of contact sites.
- (j) Type of clothing worn by the suspect
- (k) Response of the suspect to the TASER activation (i.e., reactions such as "stiffened and fell back wards"
- (l) All photographs taken of the scene, suspect, injuries, etc.
- (m) Injuries sustained by the suspect, officer(s) or citizens
- (n) Type of medical aid provided, including treating medical personnel names
- (o) Suspect transport for medical clearance and doctor's name
- (p) Whether or not an "Authorization for Release of Medical Information and Records" was completed
- (q) Suspect booking information and custodial staff advisement of Taser activation.
- (r) Identification of all personnel firing TASER devices.
- (s) Identification of all witnesses.
- (t) Observations of the subject's physical and physiological actions.
- (u) Any known or suspected drug use, intoxication or other medical problems.

Officers may review digital evidence prior to completion of reports to assure accurate recollection of the events surrounding the activation of the TASER. Digital data retrieved from any TASER may not be removed from the Police Department in any manner, including copied CDs and electronic file transfer, without authorization from the Police Chief. The onboard TASER memory will be downloaded through the data port by a trained supervisor or member of the Defensive Tactics Team and saved.

Any accidental activation of a TASER device will be investigated by the involved officer's supervisor. The supervisor shall write a memorandum documenting the circumstances of the accidental activation and forward the memorandum to his/her Manager.

#### **309.7 MEDICAL TREATMENT**

An officer shall request medical personnel to respond to the scene of a person who has been subjected to the activation of a TASER .

Individuals suspected of being under the influence of drugs/alcohol or exhibiting symptoms of excited delirium (e.g. nudity, profuse sweating, irrational behavior, extraordinary strength beyond physical characteristics or imperviousness to pain) may be more susceptible to collateral problems and should be closely monitored (e.g. breathing pattern) following an activation of the TASER until they can be examined by paramedics or other medical personnel.

Consistent with local medical personnel protocols and absent extenuating circumstances, only appropriate medical personnel should remove TASER probes from a person's body. Used TASER

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probes shall be treated as a sharp biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.

All persons who have been subjected to the electric discharge of a TASER shall be medically assessed. After the initial assessment, all subjects shall be transported by paramedics to a medical facility for a medical clearance.

If any individual refuses medical attention, such a refusal should be witnessed by another officer and/or medical personnel and shall be fully documented in related reports. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

Supervisors shall attempt to obtain an "Authorization for Release of Medical Information and Records" form from the subject prior to release or transfer to a custodial facility. The officer shall document the suspect's authorization or denial in their report.

The transporting officer shall inform any person providing medical care or receiving custody that the individual has been subjected to the activation of a TASER.

### **309.8 RESPONSIBILITIES**

#### **309.8.1 SUPERVISOR RESPONSIBILITIES**

A supervisor should respond to all incidents where the TASER was activated. Upon being notified of a TASER activation by an officer the supervisor should:

- (a) Ensure the suspect receives prompt medical treatment.
- (b) Ensure the TASER probes, wires, AFIDS, blast doors, and any other applicable evidence is collected and submitted into evidence.
- (c) Ensure the TASER deployment data has been downloaded.
- (d) Ensure the digital evidence is downloaded pursuant to Department policy.
- (e) Ensure the TASER firing data is printed and submit with the initial report.
- (f) Ensure a police report is generated and verify officers have sufficiently described the facts preceding the TASER activation.
- (g) Ensure all property reports and documentation of the evidence gathering process are completed.
- (h) Complete a Use of Force Report pursuant to Policy 300 and submit the investigation to the next in line in the chain of command.
- (i) Obtain TASER tracking number from the Personnel and Training Division.
- (j) Contact the Defensive Tactics Supervisor.

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### 309.8.2 LIEUTENANT RESPONSIBILITIES

The shift Lieutenant shall review the Supervisor's Use of Force Report for completeness and accuracy.

### **309.9 TRAINING**

Proficiency training for personnel who have been issued a TASER should occur every year. A reassessment of an officer's knowledge and/or practical skill may be required at any time if deemed appropriate by the Personnel and Training Lieutenant. All training and proficiency for the TASER will be documented in the officer's training file.

Command staff, supervisors and investigators should receive TASER training as appropriate for the investigations they conduct and review.

Officers who do not carry a TASER should receive training that is sufficient to familiarize them with the device and with working with officers who use the device.

The Personnel and Training Lieutenant is responsible for ensuring that all members who carry a TASER have received initial and annual proficiency training. Periodic audits should be used for verification.

An officer may volunteer to be exposed to a TASER activation during department approved training. The exposure is voluntary and not mandatory for certification.

The Personnel and Training Lieutenant should ensure that all training includes:

- (a) A review of this policy.
- (b) A review of the Use of Force Policy.
- (c) Performing weak-hand draws to reduce the possibility of accidentally drawing and firing a firearm.
- (d) Target area considerations, to include techniques or options to reduce the accidental application of probes near the head, neck, chest and groin.
- (e) Handcuffing a subject during the application of the TASER and transitioning to other force options.
- (f) De-escalation techniques.
- (g) Restraint techniques that do not impair respiration following the application of the TASER.

### **309.10 ADMINISTRATION NOTIFICATION**

Following a TASER activation, the field supervisor shall notify the shift Lieutenant as soon as practical, but no later than the end of the shift.

At the direction of Command Staff, the Defensive Tactics Team supervisor shall periodically conduct random audits of TASER data downloads to reconcile with reported applications.

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### **309.11 TASER INVENTORY**

It is the responsibility of the Defensive Tactics Team supervisor to maintain an accurate inventory of all TASERS.

If an officer's TASER is taken out of service and the officer is issued a new TASER, the Defensive Tactics supervisor shall ensure that the inventory list is updated and accurate

## Officer Involved Incidents

### 310.1 PURPOSE AND SCOPE

The intent of this policy is to establish policy and procedure for the investigations of Officer-Involved Incidents and to ensure that such incidents be investigated in a fair and impartial manner. Investigations of Officer-Involved Incidents will be conducted to develop all relevant information available about the incident. They will be performed in a manner that provides for a thorough and credible investigation that is free from conflicts of interest.

In addition to the policies and procedures contained in this Officer-Involved Incidents Policy, all personnel are required to read and follow the Santa Clara County Protocols Section 6 - Officer-Involved Incidents when investigating and responding to officer-involved incidents.

### 310.2 INVESTIGATION RESPONSIBILITY

This department conforms to the Santa Clara County Protocols Section 6 - Officer Involved Incidents for investigation responsibility when investigating officer-involved incidents.

### 310.3 THE INVESTIGATION PROCESS

The following procedures are additional guidelines to be used during the investigation of an officer-involved incident.

#### 310.3.1 DUTIES OF INITIAL ON SCENE SUPERVISOR

Upon arrival at the scene of an officer-involved shooting, the first uninvolved supervisor should:

- (a) Take all reasonable steps to obtain emergency medical attention for all apparently injured individuals.
- (b) Attempt to obtain a brief overview of the situation from any non-shooter officer(s).
  1. In the event that there are no non-shooter officers, the supervisor should attempt to obtain a brief voluntary overview from one shooter officer.
- (c) If necessary, the supervisor may administratively order any officer from this department to immediately provide public safety information necessary to secure the scene and pursue suspects.
  1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of shots fired, parameters of the incident scene, identity of known witnesses and similar information.
- (d) Absent a voluntary statement from any officer(s), the initial on scene supervisor should not attempt to order any officer to provide other than public safety information.
- (e) Provide all available information to the Watch Commander and the Communications Center. If feasible, sensitive information should be communicated over secure networks.

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- (f) Take command of and secure the incident scene with additional personnel until relieved by a detective supervisor or other assigned personnel.
- (g) As soon as practical, shooter officers should respond or be transported (separately, if feasible) to the station for further direction.
  - 1. Each involved officer should be given an administrative order not to discuss the incident with other involved officers pending further direction from a supervisor.
  - 2. When an officer's weapon is taken or left at the scene (e.g., evidence), the officer will be provided with a comparable replacement weapon or transported to the station by other officers.

#### 310.3.2 WATCH COMMANDER DUTIES

Upon learning of an officer-involved shooting, the Watch Commander shall be responsible for coordinating all aspects of the incident until relieved by the Chief of Police or a Division Captain.

#### 310.3.3 INVOLVED OFFICERS

Once the involved officer(s) have arrived at the station, the Watch Commander should admonish each officer that the incident shall not be discussed except with authorized personnel or representatives. The following shall be considered for the involved officer:

- (a) Any request for department or legal representation will be accommodated, however, no involved officer shall be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report (Government Code § 3303(i)).
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
- (c) Discussions with department representatives (e.g., employee association) will be privileged only as to the discussion of non-criminal information however.
- (d) A psychotherapist shall be provided by the Department to each involved officer, or any other officer, upon request.
  - 1. Interviews with a licensed psychotherapist will be considered privileged and will not be disclosed except to the extent that the officer is or is not fit for return to duty.
  - 2. An interview or session with a licensed psychotherapist may take place prior to the involved officer providing a formal interview or report, but the involved officers shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
- (e) Although the Department will honor the sensitivity of communications with peer counselors, there is no legal privilege to such. Peer counselors are cautioned against discussing the facts of any incident with an involved or witness officer.



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Care should be taken to preserve the integrity of any physical evidence present on the officer's equipment or clothing, such as blood or fingerprints, until investigators or lab personnel can properly retrieve it.

Detectives shall make reasonable accommodations to the officer's physical and emotional needs (Government Code § 3303(d)).

Each involved officer shall be given reasonable paid administrative leave following an officer-involved shooting. It shall be the responsibility of the Watch Commander to make schedule adjustments to accommodate such leave.

### **310.4 THE SHOOTING INCIDENT CRIMINAL INVESTIGATION**

#### **310.4.1 DETECTIVE PERSONNEL**

Once notified of an officer-involved incident, it shall be the responsibility of the Investigative Services Division Coordinator to assign appropriate detective personnel to handle the investigation of related crimes. Detectives will be assigned to conduct the criminal investigation and may be assigned to separately handle the investigation of any related crimes.

All related departmental reports except administrative and/or privileged reports will be forwarded to the designated detective supervisor for approval. Privileged reports shall be maintained exclusively by those personnel authorized such access. Administrative reports will be forwarded to the appropriate Division Captain.

#### **310.4.2 REPORTS BY INVOLVED OFFICERS**

In the event that suspects remain outstanding or subject to prosecution for related offenses, this department shall retain the authority to require involved officers to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those individuals (Government Code § 3304(a)).

While the involved officer may write the report, it is generally recommended that such reports be completed by assigned investigators who should interview involved officers as victims/witnesses. Since the purpose of these reports will be to facilitate criminal prosecution, statements of involved officers should focus on evidence to establish the elements of criminal activities by involved suspects. Care should be taken not to duplicate information provided by involved officers in other reports.

Nothing in this section shall be construed to deprive an involved officer of the right to consult with legal counsel prior to completing any such criminal report.

Reports related to the prosecution of criminal suspects will be processed according to normal procedures, but should also be included for reference in the investigation of the officer-involved shooting.

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#### **310.4.3 WITNESS IDENTIFICATION AND INTERVIEWS**

Because potential witnesses to an officer-involved shooting or other major incident may become unavailable or the integrity of their statements compromised with the passage of time, a supervisor should take reasonable steps to promptly coordinate with criminal investigators to utilize available personnel for the following:

- (a) Identify all persons present at the scene and in the immediate area.
  - 1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.
  - 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers should attempt to identify the witness prior to his/her departure.
- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by department personnel.
  - 1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness in a department vehicle. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.
- (c) Assign available personnel to promptly contact the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to contact with officers.

#### **310.5 ADMINISTRATIVE INVESTIGATION**

In addition to all other investigations associated with an officer-involved shooting, this department will conduct an internal administrative investigation to determine conformance with department policy. This investigation will be conducted under the supervision of the Internal Affairs Unit and will be considered a confidential peace officer personnel file.

- (a) Any officer involved in a shooting may be administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.
- (b) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.
  - 1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his or her prior statement before proceeding with any subsequent interview(s) (Government Code § 3303(g))

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- (c) In the event that an involved officer has elected to not provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
  2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview (Government Code § 3303(i)). However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
  3. Administrative interview(s) should be recorded by the investigator (the officer may also record the interview) (Government Code § 3303(g)).
  4. The officer shall be informed of all constitutional *Miranda* rights (Government Code § 3303(h)) and, assuming no voluntary waiver, will then be given an administrative order to provide full and truthful answers to all questions (Government Code § 3303(e)). The officer shall be informed, however, that the interview will be for administrative purposes only and that the statement cannot be used criminally (The *Lybarger* or *Garrity* admonishment).
  5. The administrative interview shall be considered part of the officer's confidential personnel file.
  6. The Internal Affairs Unit shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
  7. The completed administrative investigation shall be submitted to the Use of Force Review Board, which will restrict its findings as to whether there was compliance with the Department use of force policy.
  8. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

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## Canine Program

### 318.1 PURPOSE AND SCOPE

The Canine Program was established to augment police services to the community. Highly skilled and trained teams of handlers and canines have evolved from the program and are used to supplement police operations to locate individuals, contraband and to apprehend criminal offenders.

### 318.2 GUIDELINES FOR THE USE OF CANINES

A canine may be used to locate and apprehend a suspect if the canine handler reasonably believes that the individual has either committed or threatened to commit any serious offense and if any of the following conditions exist:

- (a) There is a reasonable belief that the individual poses an imminent threat of violence or serious harm to the public, any officer, or the handler.
- (b) The individual is physically resisting or threatening to resist arrest and the use of a canine reasonably appears to be necessary to overcome such resistance.
- (c) The individual(s) is/are 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. In any such case, a standard of objective reasonableness shall be used to review the decision to use a canine in view of the totality of the circumstances.

Absent reasonable belief that an individual has committed or threatened to commit a serious offense, mere flight from pursuing officer(s) shall not serve as good cause for the use of a canine to apprehend the individual.

Once the individual has been located and no longer reasonably appears to represent a threat or risk of escape, the canine should be placed in a down-stay or otherwise secured as soon as it becomes reasonably practical.

#### 318.2.1 PREPARATION FOR UTILIZING A CANINE

Prior to the use of a canine to search for or apprehend any individual, the canine handler and/or the supervisor on scene shall carefully consider all pertinent information that is reasonably available at the time. The information should include, but is not limited to the following:

- (a) The individual's age or estimate thereof.
- (b) The nature of the suspected offense.
- (c) Any potential danger to the public and/or other officers at the scene if the canine is released.
- (d) The degree of resistance or threatened resistance, if any, the subject has shown.
- (e) The potential for escape or flight if the police dog is not utilized.

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- (f) The potential for injury to officers or the public caused by the suspect if the canine is not utilized.

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

A canine handler shall have the ultimate authority not to deploy the dog. The handler will evaluate each situation and determine if the use of a canine is technically feasible. Generally, the decision whether to deploy the dog shall remain with the handler. However, a supervisor sufficiently apprised of the situation may decide not to deploy the dog.

### 318.2.2 WARNINGS GIVEN TO ANNOUNCE THE USE OF A CANINE

Unless it would otherwise increase the risk of injury or escape, a clearly audible warning to announce that a canine will be released if the person does not come forth, shall be made prior to releasing a canine. The canine handler, when practical, shall first advise the supervisor of his/her decision if a verbal warning is not given prior to releasing the canine. In the event of an apprehension, the handler shall document in any related report whether or not a verbal warning was given and, if none was given, the reasons why.

### 318.2.3 GUIDELINES FOR NON-APPREHENSION USE

Because canines have senses far superior to those of humans, they may often be effectively utilized to track or search for non-criminals (e.g. lost children, individuals who may be disoriented or in need of medical attention) or even suspects wanted for minor criminal offenses. In such circumstances, it will be necessary for the handler to evaluate the conditions and ability of the canine to determine the feasibility of such an application.

- (a) Absent a change in circumstances that present an imminent threat to officers, the canine or the public, such applications should be conducted on leash or under such conditions that will minimize the likelihood that the canine will bite or otherwise injure the individual.
- (b) Unless otherwise directed by a supervisor, assisting personnel should take direction from the handler in order to minimize interference with the canine.
- (c) Once the individual has been located, the canine should be placed in a down stay or otherwise secured as soon as it becomes reasonably practicable.

### 318.2.4 REPORTING CANINE USE, BITES AND INJURIES

Whenever a canine is deployed and intentionally bites or otherwise causes injury to a suspect, a supervisor shall be promptly notified and the injuries documented in a Canine Use Report Form. The deployment and injuries should also be included in any related incident or arrest report.

Any unintended bite or injury caused by the canine during deployments, operations, training, presentations or under any other circumstances, either on- or off-duty, shall be promptly reported to the Unit Supervisor. Unintended bites or injuries caused by the canine should be documented in an administrative report, not on a Canine Use Report Form.

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### 318.2.5 REPORTING CANINE INJURIES

In the event that a canine is injured, the injury will be immediately reported to the on duty Watch Commander, who will notify the Unit Coordinator.

Medical care for any injured canine shall follow the protocol established in the Medical Care of the Canine section of this policy.

The injury will be documented on a Canine Use Report Form.

### 318.2.6 ASSIGNMENT OF CANINES

The canine teams shall be assigned to the Field Services Division to supplement and assist the Patrol Bureau.

Canine teams should function primarily as cover units however; they may be assigned by the Watch Commander to other functions based on the needs of the watch at the time.

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

## **318.3 REQUEST FOR USE OF CANINE TEAMS**

Personnel within the Department are encouraged to freely solicit the use of the canines. Requests for a canine team from outside of the Patrol Bureau shall go through the Unit Coordinator or the Watch Commander.

### 318.3.1 REQUEST FOR ASSISTANCE FROM OTHER AGENCIES

The Watch Commander or the Unit Coordinator must approve all requests for canine assistance from outside agencies, subject to the following provisions:

- (a) Canine teams shall not be used for any assignment that is not consistent with this policy.
- (b) The handler has the ultimate authority to decide whether the canine should be used for any specific assignment.
- (c) Canine teams shall not be called out while off-duty or used outside the boundaries of the City of Palo Alto unless authorized by the Watch Commander or the Unit Coordinator.
- (d) It shall be the responsibility of the canine handler to coordinate with outside agency personnel in order to minimize the risk of unintended injury.

### 318.3.2 REQUEST FOR PUBLIC DEMONSTRATIONS

All public requests for a canine team shall be approved by the Unit Coordinator prior to making any commitment.

Handlers shall not demonstrate any apprehension work to the public unless authorized to do so by the Unit Coordinator.

## **318.4 SELECTION OF CANINE HANDLERS**

The following are the minimum qualifications for the assignment of canine handler:

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- (a) Palo Alto Police Department officer or agent (currently off probation)
- (b) Reside in an adequately fenced, single-family, residence (minimum five-foot high fence with locking gates)
- (c) Have a garage which can be secured and accommodate a canine unit
- (d) Live within 30 minutes travel time from the Palo Alto City limits
- (e) Agree to be assigned to the position for the minimum time as listed in Policy 1004.

### **318.5 CANINE HANDLER RESPONSIBILITIES**

#### 318.5.1 AVAILABILITY

The handler shall be available for call-out under conditions specified by the Unit Coordinator.

#### 318.5.2 CARE FOR THE CANINE AND EQUIPMENT

The 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 handler will be responsible for the following:

- (a) Unless required by a particular application, 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 and when not on duty shall maintain the canine unit in a garage, secured from public view.
- (c) When a handler takes a vacation or extended number of days off, the assigned canine vehicle shall be maintained at the Police Department facility.
- (d) Handlers shall permit the Unit Coordinator to conduct spontaneous on-site inspections of affected areas of their residence as well as the canine unit, to verify that conditions and equipment conform to this policy.
- (e) Any changes in the living status of the handler which may affect the lodging or environment of the canine shall be reported to the Unit Coordinator as soon as possible.
- (f) When off-duty, canines shall be maintained in kennels, provided by the City, at the homes of their handlers. When a canine is kenneled at the handler's home, the gate shall be secured with a lock. When off-duty, canines may be let out of their kennels while under the direct control of their handlers.
- (g) 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.
- (h) Under no circumstances will the canine be lodged at another location unless approved by the Unit Coordinator or Watch Commander.

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- (i) When off-duty, handlers shall not involve their canines in any activity or conduct unless approved in advance by the Unit Coordinator or Watch Commander.
- (j) Whenever a canine handler anticipates taking a vacation or an extended number of days off, it may be necessary to temporarily relocate the canine. In those situations, the handler shall give reasonable notice to the Unit Coordinator so that appropriate arrangements can be made.

#### **318.5.3 CANINE IN PUBLIC AREAS**

All canines shall be kept on a leash when in areas that allow access to the public. Exceptions would include specific police operations for which the canines are trained.

- (a) Canines shall not be left unattended in any area to which the public may have access.
- (b) When the canine unit 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 insure that the unattended unit remains inhabitable for the canine.

#### **318.5.4 HANDLER COMPENSATION**

The canine handler shall be compensated for time spent in the care, feeding, grooming and other needs of the dog as provided in the Fair Labor Standards Act. The compensation shall be prescribed in the employee's Memorandum of Understanding.

#### **318.6 MEDICAL CARE OF THE CANINE**

All medical attention shall be rendered by the designated canine veterinarian, except during an emergency as provided in Policy Manual § 318.6.2.

##### **318.6.1 NON-EMERGENCY MEDICAL CARE**

Non-emergency medical care will be coordinated through the Unit Coordinator.

Any indication that a canine is not in good physical condition shall be reported to the Unit Coordinator or the Watch Commander as soon as practical.

All records of medical treatment shall be maintained in the canine handler's personnel file.

##### **318.6.2 EMERGENCY MEDICAL CARE**

The handler shall notify the Unit Coordinator as soon as practicable when emergency medical care for the canine is required.

Depending on the severity of the injury or illness, the canine shall either be treated by the designated veterinarian or transported to a designated emergency medical facility for treatment. If the handler and dog are out of the area, the handler may use the nearest available veterinarian.

#### **318.7 TRAINING**

Before assignment in the field, each canine team shall be trained and certified to meet current POST guidelines. Cross-trained dog teams or those dog teams trained exclusively for the detection of narcotics and/or explosives shall be trained and certified to meet the standards established



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for such detection dogs by the California Narcotic Canine Association or other recognized and approved certification standards.

The Unit Supervisor shall be responsible for scheduling periodic training for all department personnel in order to familiarize them with how to conduct themselves in the presence of department canines.

#### **318.7.1 CONTINUED TRAINING**

Each canine team shall thereafter be re-certified to current POST guidelines and the California Narcotic Canine Association or other recognized and approved certification standards on an annual basis. Additional training considerations are as follows:

- (a) Canine teams shall receive training as defined in the current contract with the department's canine training provider.
- (b) Canine handlers are encouraged to engage in additional training with approval of the Unit Coordinator.
- (c) To ensure that all training is consistent, no handler, trainer, or outside vendor is authorized to train to a standard that is contrary to the policies of the Palo Alto Police Department.
- (d) All canine training shall be conducted while on-duty unless otherwise approved by the Unit Supervisor.

#### **318.7.2 FAILURE TO SUCCESSFULLY COMPLETE POST TRAINING**

Any dog team failing POST canine certification and, if cross-trained, the California Narcotic Canine Association or other recognized and approved certification standards shall not be deployed in the field until certification is achieved. When practical, pending successful certification, the canine handler shall be temporarily reassigned to regular patrol duties.

#### **318.7.3 TRAINING RECORDS**

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

### **318.8 CANINE UNIT COORDINATOR RESPONSIBILITIES**

The Unit Coordinator shall be appointed by staff and shall supervise the Canine Program. The Unit Coordinator is directly responsible to the Field Services Division Captain. The Unit Coordinator shall be responsible for, but not limited to, the following:

- (a) Review all Canine Use Reports to insure compliance with policy and to identify training issues and other needs of the program.
- (b) Maintain liaison with the vendor kennel.
- (c) Maintain liaison with administrative staff and functional supervisors.
- (d) Maintain liaison with other agency canine coordinators.
- (e) Maintain accurate records to document canine activities.

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- (f) Recommend and oversee the procurement of needed equipment and services for the unit.
- (g) Be responsible for scheduling all canine related activities.
- (h) Ensure the canine teams are scheduled for continuous training to maximize the capabilities of the teams.

### **318.9 CONTROLLED SUBSTANCE TRAINING AIDS**

Controlled substance training aids are required to effectively train and maintain drug detecting dogs. Further, controlled substances can also be an effective training aid during training sessions for law enforcement personnel and the public.

Health & Safety Code § 11367.5 provides that any Sheriff, Chief Of Police, the Chief of the Bureau of Controlled Substance Enforcement, or the Commissioner of the California Highway Patrol, or a designee thereof may, in his or her discretion, provide controlled substances in his or her possession for training purposes:

- (a) To any duly authorized peace officer or civilian drug detection canine trainer working under the direction of a law enforcement agency
- (b) Provided the controlled substances are no longer needed as criminal evidence
- (c) Provided the person receiving the controlled substances, if required by the Drug Enforcement Administration, possesses a current and valid Drug Enforcement Administration registration that specifically authorizes the recipient to possess controlled substances while providing substance abuse training to law enforcement or the community or while providing canine drug detection training

#### **318.9.1 PROCEDURES**

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

- (a) All necessary controlled substance training samples shall be acquired from the Palo Alto Police Department's evidence personnel or from allied agencies authorized by Health & Safety Code § 11367.5 to provide controlled substance training samples. All controlled substance training samples shall be weighed and tested prior to dispensing to the individual canine handler
- (b) The weight and test results shall be recorded and maintained by this department
- (c) Any person receiving controlled substance training samples pursuant to Health & Safety Code § 11367.5 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

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- (e) All controlled substance training samples will be stored in locked metal boxes at all times, except during training. The locked metal boxes shall be secured in the trunk of the canine handler's assigned patrol unit, or stored in a locked evidence locker. There are no exceptions to this procedure
- (f) The Canine Unit 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 and Evidence Section 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

#### 318.9.2 IMMUNITY

All duly authorized peace officers acting in the performance of their official duties and any person working under their immediate direction, supervision or instruction are immune from prosecution under the Uniform Controlled Substance Act while providing substance abuse training or canine drug detection training (Health & Safety Code § 11367.5(b)).

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## Domestic Violence

### 320.1 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.

### 320.2 POLICY

The Palo Alto 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 addition to the policies and procedures contained in this Domestic Violence Policy, all personnel are required to read and follow the Santa Clara County Protocols Section 3 - Domestic Violence Protocol for Law Enforcement, when investigating and responding to domestic violence investigations.

### 320.3 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.

### 320.4 LEGAL MANDATES AND RELEVANT LAWS

California law provides for the following:

#### 320.4.1 STANDARDS FOR ARRESTS

Officers investigating a domestic violence report should consider the following:

- (a) An arrest should 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 reasonable 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 not make an arrest will advise the victim of his/her right to make a private person's arrest. The advisement should be

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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).

### 320.4.2 COURT ORDERS

- (a) 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).

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- (b) 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).
- (c) 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)).
- (d) 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).

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## Search and Seizure

### 322.1 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 Palo Alto Police Department personnel to consider when dealing with search and seizure issues.

### 322.2 POLICY

It is the policy of the Palo Alto 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.

In accordance with the Training Policy, 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.

### 322.3 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.

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### **322.4 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 Palo Alto Police Department officer of the same sex as the subject should conduct the search if one is available. If one is not available, it is recommended that the search be witnessed by another officer, or conducted within view of the Department's Mobile Audio Video (MAV) system. Whenever a search of the opposite sex occurs, it should be noted in either the report or the CAD incident that an officer of the same sex was unavailable.

### **322.5 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
- Whenever a search of the opposite sex occurs, it should be noted in either the report or the CAD incident that an officer of the same sex was unavailable.

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.

### **322.6 EXECUTION OF SEARCH WARRANTS**

It shall be the policy of the Palo Alto Police Department that the execution of search warrants and parole or probation searches be conducted on a safety-first basis. The safety of involved personnel shall take precedence over the apprehension of suspects or recovery of contraband.



## *Search and Seizure*

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### 322.6.1 THREAT ASSESSMENT

Few responsibilities pose as high a danger to police, suspects or citizens as the execution of search warrants, parole/probation searches and planned arrests. The level of response to these situations will be based on intelligence gathered by the case agent.

### 322.6.2 SEARCH WARRANTS FOR DOCUMENTS

The lowest level involving officer safety or tactics is any search warrant that is served at any business or to any professional person for the purposes of securing documentary evidence. Although no tactical response is necessary, basic officer safety principles should be considered.

### 322.6.3 HOTEL CHECKS/PALO ALTO WARRANT SERVICE

This level of arrest is typically served by the Field Services Division and is most often generated through in house warrants, hotel registry checks, or outside agency requests. This level typically involves misdemeanor crimes, traffic-related offenses and municipal code violations or the service of warrants at hotel rooms, offices or residences where it is not anticipated that a lengthy tactical search will be required.

Officers shall check the backgrounds of persons sought for the following:

- (a) Past violence or weapons history;
- (b) Address check for associates;
- (c) History of mental instability.

If the person's background includes violence or weapons, the officer shall contact the supervisor to determine the appropriate level of police response.

All police responses require a minimum of two officers. Additional officers will be deployed at the discretion of the initiating officer or supervisor.

### 322.6.4 FELONY/WEAPONS/OTHER ARREST & SEARCH WARRANTS

Warrants that fall into one of the below categories must have a comprehensive threat assessment conducted and an Operations Plan unless exigent circumstances exist for immediate service:

- (a) Felony or weapon violation;
- (b) Background of suspect includes violence or weapons;
- (c) Suspect has a history of mental instability;
- (d) Arrest of multiple suspects;
- (e) Narcotics violations;
- (f) Information that indicates a serious threat to officers;
- (g) Any search warrant;
- (h) Supervisor deems it necessary.

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A comprehensive "Threat Assessment" Checklist is a forced response process with assigned point values to specific areas of concern. The accumulation of points, indicate the type and level of response by this department.

- SWAT Optional 01-16 Points
- Consult SWAT Commander 17-24 Points
- Mandatory SWAT Activation 25 + Points

Although points are assigned on the Threat Assessment Checklist, a supervisor may consult the SWAT Commander due to any safety consideration or concern.

### 322.6.5 PROCEDURE

- (a) **SUPERVISION:** No search warrant, parole or probation search shall be executed without the presence of a sergeant or his/her designee.
- (b) **BACKGROUND:** During the development of a search warrant, and prior to a parole or probation search, the investigating officer shall prepare a file containing all available relevant information such as criminal history information, photographs, pertinent reports, driver's license information, and any other information deemed necessary. Additionally, any suspects associated with the premises to be searched shall be checked through the Department of Justice for any record of gun registration (completion of threat assessment is mandatory).
- (c) **COMMUNICATION:** All personnel participating in the execution of a search warrant shall have a portable radio and all communications will be conducted on the same radio frequency. Whenever possible, Communications personnel should attend briefings.
- (d) **PERSONNEL:** As a general rule, a minimum of four officers should be utilized in the execution of any search warrant. This shall not prohibit the use of more or less officers when the supervisor considers it appropriate. A uniformed officer will be used to assist with initial entry to the premises to be searched.
- (e) **PLAN:** Prior to the execution of any search warrant, an operations order shall be prepared outlining the plan of action, the personnel involved, specific assignments, and all relevant information pertaining to the premises to be searched and any associated subjects. The operation order should follow the SMEAC format: SITUATION, MISSION, EXECUTION, ASSIGNMENTS, COMMAND AND CONTROL. To ensure the safety of all personnel involved, the following guidelines will be adhered to:
  1. A minimum of two (2) officers shall be stationed in the front and two (2) stationed at the rear of the building/premises to be searched;
  2. Both front and rear entrances are not to be entered simultaneously;
  3. The operation supervisor is responsible for issuing a Code-4 at the scene when the situation has been safety stabilized.

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- (f) **BRIEFING:** Each search warrant, parole/probation search, or arrest warrant will be preceded by a briefing. In the briefing the case agent will review all the intelligence that has been gathered as well as outline the current investigation.
1. Dynamic entry;
  2. Surround and call out;
  3. Surveillance and take-down;
  4. Breach and hold.
- (g) **GUNFIRE:** In the event there is gunfire, all personnel will seek appropriate cover/concealment, secure the scene, and notify the watch commander for further direction. Nothing in this policy shall supersede §304 of this policy manual.
- (h) **CURRENT SUSPECT/RESIDENCE INFORMATION:** Every attempt shall be made to obtain the most current information available about the persons and/or place to be searched (DMV, CJIC, CLETS, LexisNexis Accurint, Criss Cross, local records, etc.)
- (i) **EQUIPMENT**
1. Protective armor shall be worn by all officers involved in the execution of a search warrant, parole or probation search;
  2. Any non-uniformed personnel involved in the execution of any search warrant or parole and probation search shall wear badges and easily identifiable jackets or caps.
- (j) **FIREARMS:** All officers involved in the execution of a search warrant shall be properly armed with approved sidearms. Any use of firearms shall be in accordance with Palo Alto Police Department General Order §304.
- (k) **NOTIFICATION:** When any search warrant, parole or probation search is anticipated, the supervisor will notify his/her respective Division Captain, utilizing the proper chain of command. The notification shall include a copy of the operation order as well as state who the responsible authority is for the search. It is the Division Captain's responsibility to assess the plan, make recommendations or modifications and determine if it is necessary to notify the Police Chief.
1. When searches are planned outside the Palo Alto City limits, the supervisor shall contact the appropriate agency of the time and location of the search. A representative of the agency will be requested to participate in the search.
- (l) **THE SEARCH**
1. Prior to the actual search, the supervisor shall attempt to verify that the premises listed in the search warrant are, in fact, the premises to be searched;
  2. Prior to using force to gain entrance to the location to be searched, the supervisor or previously designated officer shall provide notice of his/her authority and purpose

## Search and Seizure

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to persons inside the residence per Penal Code §1531 and give them a reasonable amount of time to respond;

3. Prior to any search, an "evidence collector" will be designated. This individual shall take possession of packages and seal and mark all items seized in accordance with proper collection techniques;
  4. Once the premises are secured, the search shall take place in an orderly progression with minimum disruption to the premises;
  5. A copy of the search warrant shall be given to occupants of the premises or left in a conspicuous place if the premises are vacant;
  6. All searching shall be conducted in a courteous and non-destructive manner. Any disarray created by the search shall be minimized;
  7. When all items listed in the warrant have been found, or when it reasonably appears that the listed items are not on the premises, the search will be terminated;
  8. Per Penal Code §1535, a receipt will be prepared of all items seized prior to departure and will be reviewed with the occupant, if present. The receipt is to be signed by the designated evidence collector. A copy of the receipt shall be given to the occupant or left in a conspicuous location on the premises;
  9. A complete record of the execution of the search shall be made including the time of search, all circumstances of the entry, and names of persons present (both occupants of premises and police personnel);
  10. Documentation and photographs shall be taken of any damage done during the execution of the search/arrest warrant (i.e. broken doors, windows). An option, if available, is to video tape the scene before and after the search.
- (m) **SEIZURE OF MONIES:** Any monies found and/or seized as a result of the search shall be immediately called to the attention of the supervisor. All monies found or seized will be handled in accordance with current Departmental policy;
- (n) **COMPLETION OF SEARCH:** Upon completion of the search and departure from the scene, the on-duty Watch Commander will be notified;
- (o) **DE-BRIEF:** After the operation is completed the supervisor should conduct a de-briefing with all involved personnel.

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## Juvenile Procedures

### 324.1 PURPOSE AND SCOPE

This policy provides guidelines consistent with the Juvenile Justice and Delinquency Prevention Act for juveniles taken into temporary custody by members of the Palo Alto Police Department (42 USC § 5633).

Guidance regarding contacting juveniles at schools or who may be victims is provided in the Child Abuse Policy.

#### 324.1.1 DEFINITIONS

Definitions related to this policy include:

**Juvenile non-offender** - An abused, neglected, dependent or alien juvenile who may be legally held for his/her own safety or welfare. This also includes any juvenile who may have initially been contacted for an offense that would not subject an adult to arrest (e.g., fine-only offense) but was taken into custody for his/her protection or for purposes of reuniting the juvenile with a parent, guardian or other responsible person.

**Juvenile offender** - A juvenile 17 years of age or younger who is alleged to have committed an offense that would subject an adult to arrest (a non-status offense). It also includes an offense under Penal Code § 29610 for underage possession of a handgun or concealable firearm (28 CFR 31.303).

**Non-secure custody** - When a juvenile is held in the presence of an officer or other custody employee at all times and is not placed in a locked room, cell or behind any locked doors. Juveniles in non-secure custody may be handcuffed but not to a stationary or secure object. Personal supervision, through direct visual monitoring and audio two-way communication is maintained. Monitoring through electronic devices, such as video, does not replace direct visual observation (Welfare and Institutions Code § 207.1(d); 15 CCR 1150).

**Safety checks** - Direct, visual observation personally by member of this department performed at random intervals within time frames prescribed in this policy to provide for the health and welfare of inmates.

**Secure custody** - When a juvenile offender is held in a locked room, a set of rooms or a cell. Secure custody also includes being physically secured to a stationary object (15 CCR 1146).

Examples of secure custody include:

- (a) A juvenile left alone in an unlocked room within the secure perimeter of the adult temporary holding area.
- (b) A juvenile handcuffed to a rail.
- (c) A juvenile placed in a room that contains doors with delayed egress devices that have a delay of more than 30 seconds.

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- (d) A juvenile being processed in a secure booking area when an unsecure booking area is available.
- (e) A juvenile left alone in a secure booking area after being photographed and fingerprinted.
- (f) A juvenile placed in a cell within the adult temporary holding area, whether or not the cell door is locked.

**Sight and sound separation** - Located or arranged to prevent physical, visual or auditory contact.

**Status offender** - A juvenile suspected of committing a criminal violation of the law that would not be a criminal violation but for the age of the offender. Examples may include running away, underage possession of tobacco, curfew violation or truancy. A juvenile in custody on a court order or warrant based upon a status offense is also a status offender. This includes the habitually disobedient or truant juvenile under Welfare and Institutions Code § 601 and any juvenile suspected of an offense that would not subject an adult to arrest (e.g., fine-only offense).

### **324.2 POLICY**

The Palo Alto Police Department is committed to releasing juveniles from temporary custody as soon as reasonably practicable and keeping juveniles safe while they are in temporary custody at the Palo Alto Police Department. Juveniles should be held in temporary custody only for as long as reasonably necessary for processing, transfer or release.

### **324.3 JUVENILES WHO SHOULD NOT BE HELD**

Juveniles who exhibit any of the following conditions should not be held at the Palo Alto Police Department:

- (a) Unconscious
- (b) Seriously injured
- (c) A known suicide risk or obviously severely emotionally disturbed
- (d) Significantly intoxicated except when approved by the Watch Commander. A medical clearance shall be obtained for minors who are under the influence of drugs, alcohol or any other intoxicating substance to the extent that they are unable to care for themselves (15 CCR 1151).
- (e) Extremely violent or continuously violent

Officers taking custody of a juvenile who exhibits any of the above conditions should take reasonable steps to provide medical attention or mental health assistance and notify a supervisor of the situation (15 CCR 1142; 15 CCR 1151).

These juveniles should not be held at the Palo Alto Police Department unless they have been evaluated by a qualified medical and/or mental health professional (15 CCR 1142).

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If the officer taking custody of the juvenile believes the juvenile may be a suicide risk, the juvenile shall be under continuous direct supervision until evaluation, release or a transfer is completed (15 CCR 1142).

### **324.3.1 EMERGENCY MEDICAL CARE OF JUVENILES IN CUSTODY**

When emergency medical attention is required for a juvenile, medical assistance will be called immediately. The Watch Commander shall be notified of the need for medical attention for the juvenile. Department members should administer first aid as applicable (15 CCR 1142).

### **324.3.2 SUICIDE PREVENTION OF JUVENILES IN CUSTODY**

Department members should be alert to potential symptoms based upon exhibited behavior that may indicate the juvenile is a suicide risk. These symptoms may include depression, refusal to communicate, verbally threatening to kill him/herself or any unusual behavior which may indicate the juvenile may harm him/herself while in either secure or non-secure custody (15 CCR 1142).

### **324.4 CUSTODY OF JUVENILES**

Officers should take custody of a juvenile and temporarily hold the juvenile at the Palo Alto Police Department when there is no other lawful and practicable alternative to temporary custody. Refer to the Child Abuse Policy for additional information regarding detaining a juvenile that is suspected of being a victim.

No juvenile should be held in temporary custody at the Palo Alto Police Department without authorization of the arresting officer's supervisor or the Watch Commander. Juveniles taken into custody shall be held in non-secure custody unless otherwise authorized by this policy.

Any juvenile taken into custody shall be released to the care of the juvenile's parent or other responsible adult or transferred to a juvenile custody facility or to other authority as soon as practicable and in no event shall a juvenile be held beyond six hours from the time of his/her entry into the Palo Alto Police Department (42 USC § 5633; Welfare and Institutions Code § 207.1(d)).

#### **324.4.1 CUSTODY OF JUVENILE NON-OFFENDERS**

Non-offenders taken into protective custody in compliance with the Child Abuse Policy should generally not be held at the Palo Alto Police Department. Custodial arrangements should be made for non-offenders as soon as reasonably possible. Juvenile non-offenders shall not be held in secure custody (42 USC § 5633; Welfare and Institutions Code § 206).

#### **324.4.2 CUSTODY OF JUVENILE STATUS OFFENDERS**

Status offenders should generally be released by citation or with a warning rather than taken into temporary custody. However, officers may take custody of a status offender if requested to do so by a parent or legal guardian in order to facilitate reunification (e.g., transported home or to the station to await a parent). Status offenders shall not be held in secure custody (42 USC § 5633).

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### 324.4.3 CUSTODY OF JUVENILE OFFENDERS

Juvenile offenders should be held in non-secure custody while at the Palo Alto Police Department unless another form of custody is authorized by this policy or is necessary due to exigent circumstances.

Generally, a juvenile offender may be taken into custody when authorized by a court order or when there is probable cause to believe the juvenile has committed an offense that would subject an adult to arrest (Welfare and Institutions Code § 625).

A juvenile offender who is 14 years of age or older and suspected of using a firearm in violation of Welfare and Institutions Code 625.3 shall be transported to a juvenile facility.

A juvenile offender suspected of committing murder or a sex offense that may subject a juvenile to criminal jurisdiction under Welfare and Institutions Code § 602(b), or a serious or violent felony should be referred to a probation officer for a decision on further detention.

In all other cases the juvenile offender may be:

- (a) Released upon warning or citation.
- (b) Released to a parent or other responsible adult after processing at the Department.
- (c) Referred to a probation officer for a decision regarding whether to transport the juvenile offender to a juvenile facility.
- (d) Transported to his/her home or to the place where the juvenile offender was taken into custody (Welfare and Institutions Code § 207.2).

In determining which disposition is appropriate, the investigating officer or supervisor shall prefer the alternative which least restricts the juvenile's freedom of movement, provided that alternative is compatible with the best interests of the juvenile and the community (Welfare and Institutions Code § 626).

Whenever a juvenile offender under the age of 14 is taken into custody, the officer should take reasonable steps to verify and document the child's ability to differentiate between right and wrong, particularly in relation to the alleged offense (Penal Code § 26).

### **324.5 ADVISEMENTS**

Officers shall take immediate steps to notify the juvenile's parent, guardian or a responsible relative that the juvenile is in custody, the location where the juvenile is being held and the intended disposition (Welfare and Institutions Code § 627).

Whenever a juvenile is taken into temporary custody, he/she shall be given the *Miranda* rights advisement regardless of whether questioning is intended (Welfare and Institutions Code § 625).

Anytime a juvenile offender is placed in secure custody, he/she shall be informed of the purpose of the secure custody, the length of time the secure custody is expected to last and of the maximum six-hour limitation (Welfare and Institutions Code § 207.1(d)).



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Juveniles taken into custody for an offense shall immediately be advised (or at least within one hour from being taken into custody, if possible) that they may make three telephone calls: one call completed to his/her parent or guardian; one to a responsible relative or his/her employer; and another call completed to an attorney. The calls shall be at no expense to the juvenile when completed to telephone numbers within the local calling area. Juveniles should be asked whether they are a caregiver and provided two more phone calls in the same manner as provided to adults in the Temporary Holding Facility Policy (Welfare and Institutions Code § 627; Penal Code § 851.5).

### **324.6 JUVENILE CUSTODY LOGS**

Any time a juvenile is held in custody at the Department, the custody shall be promptly and properly documented in the juvenile custody log, including:

- (a) Identifying information about the juvenile being held.
- (b) Date and time of arrival and release from the Palo Alto Police Department (15 CCR 1150).
- (c) Watch Commander notification and approval to temporarily hold the juvenile.
- (d) Any charges for which the juvenile is being held and classification of the juvenile as a juvenile offender, status offender or non-offender.
- (e) Any changes in status.
- (f) Time of all safety checks.
- (g) Any medical and other screening requested and completed (15 CCR 1142).
- (h) Circumstances that justify any secure custody (Welfare and Institutions Code § 207.1(d); 15 CCR 1145).
- (i) Any other information that may be required by other authorities, such as compliance inspectors or a local juvenile court authority.

The Watch Commander shall initial the log to approve the custody, including any secure custody, and shall also initial the log when the juvenile is released.

### **324.7 NO-CONTACT REQUIREMENTS**

Sight and sound separation shall be maintained between all juveniles and adults while in custody at the Department (42 USC § 5633; Welfare and Institutions Code § 207.1(d); Welfare and Institutions Code § 208; 15 CCR 1144). There should also be sight and sound separation between non-offenders and juvenile and status offenders.

In situations where brief or accidental contact may occur (e.g., during the brief time a juvenile is being fingerprinted and/or photographed in booking), a member of the Palo Alto Police Department (trained in the supervision of persons in custody) shall maintain a constant, immediate, side-by-side presence with the juvenile or the adult to minimize any contact. If inadvertent or accidental contact does occur, reasonable efforts shall be taken to end the contact (15 CCR 1144).

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#### **324.8 TEMPORARY CUSTODY REQUIREMENTS**

Members and supervisors assigned to monitor or process any juvenile at the Palo Alto Police Department shall ensure the following:

- (a) The Watch Commander should be notified if it is anticipated that a juvenile may need to remain at the Palo Alto Police Department more than four hours. This will enable the Watch Commander to ensure no juvenile is held at the Palo Alto Police Department more than six hours.
- (b) A staff member of the same sex shall supervise personal hygiene activities and care, such as changing clothing or using the restroom, without direct observation to allow for privacy.
- (c) Personal safety checks and significant incidents/activities shall be noted on the log.
- (d) There shall be no viewing devices, such as peep holes or mirrors, of which the juvenile is not aware. Therefore, an employee should inform a juvenile under his/her care that the juvenile will be monitored at all times, unless he/she is using the toilet. This does not apply to surreptitious and legally obtained recorded interrogations.
- (e) Juveniles shall have reasonable access to toilets and wash basins (15 CCR 1143).
- (f) Food shall be provided if a juvenile has not eaten within the past four hours or is otherwise in need of nourishment, including any special diet required for the health of the juvenile (15 CCR 1143).
- (g) Juveniles shall have reasonable access to a drinking fountain or water (15 CCR 1143).
- (h) Juveniles shall have reasonable opportunities to stand and stretch, particularly if handcuffed or restrained in any way.
- (i) Juveniles shall have privacy during family, guardian and/or lawyer visits (15 CCR 1143).
- (j) Juveniles shall be permitted to remain in their personal clothing unless the clothing is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody (15 CCR 1143).
- (k) Blankets shall be provided as reasonably necessary (15 CCR 1143).
- (l) Adequate shelter, heat, light and ventilation should be provided without compromising security or enabling escape.
- (m) Juveniles shall have adequate furnishings, including suitable chairs or benches.
- (n) Juveniles shall have the right to the same number of telephone calls as an adult in custody.
- (o) No discipline may be administered to any juvenile, nor may juveniles be subjected to corporal or unusual punishment, humiliation or mental abuse (15 CCR 1142).

#### **324.9 USE OF RESTRAINT DEVICES**

Juvenile offenders may be handcuffed in accordance with the Handcuffing and Restraints Policy. A juvenile offender may be handcuffed at the Palo Alto Police Department when the juvenile presents

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a heightened risk. However, non-offenders and status offenders should not be handcuffed unless they are combative or threatening (15 CCR 1142).

Other restraints shall only be used after less restrictive measures have failed and with the approval of the Watch Commander. Restraints shall only be used so long as it reasonably appears necessary for the juvenile's protection or the protection of others (15 CCR 1142).

Juveniles in restraints shall be kept away from other unrestrained juveniles or monitored in such a way as to protect the juvenile from abuse (15 CCR 1142).

### **324.10 OFFICER RESPONSIBILITIES**

- (a) In any case where a juvenile is taken into temporary custody for either W&I § 601 or W&I § 602, as set forth in W&I § 625, the juvenile should be promptly advised of his/her Miranda Rights to ensure the admissibility of any spontaneous statements, even when there is no interrogation. Parents may not invoke Miranda for their child.
- (b) Take immediate steps to notify parents/guardians per W&I § 308(a) and W&I § 627(a). The investigating officer shall notify the parent or guardian of a minor when their child has been detained or questioned by police pursuant to a criminal investigation. The officer should explain the events to the parent so that they understand the reason for the contact and where the minor has been taken or is being held. In the instance of a detention or investigation in which a minor is questioned but not arrested, the officer shall have the option or discretion of notifying the parent at the conclusion of the incident, especially if there is a reasonable concern that early notification would jeopardize the investigation or compromise officer safety.
- (c) Allow the juvenile to make the necessary phone calls within one hour, as set forth in W&I § 308(b) and W&I § 627(b). No later than one hour after being taken into custody, the minor shall be advised that he/she has the right to make two completed phone calls from the place where the minor is being held. One to a parent or guardian, a responsible relative, or employer, and another call to an attorney. The only exception to this requirement will be when the minor is physically unable to make the phone calls. Any public officer or employer who willfully deprives a minor taken into custody of his right to make such telephone calls is guilty of a misdemeanor.
- (d) Officers shall notify the school administration, preferably the vice-principal of student affairs, prior to contacting the juvenile at the school. The officer shall advise the school administrator of the purpose of the contact since the school is responsible for the child during school hours. Upon completing an interview or arrest, the officer shall let the school official know the disposition of the contact before leaving the school.
  - 1. The officer should use his/her discretion when interviewing a child on a school campus. If an interview is conducted on a school campus, the officer shall contact the parents immediately after the interview.

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#### 324.10.1 JUVENILE CONTACT REPORT (JCR)

Police officers shall complete a JCR in the following instances:

- (a) When the juvenile is taken to Juvenile Hall. All juvenile bookings require a statement of probable cause, for each on-view law violation, summarized on the JCR;
- (b) When the juvenile is issued a citation for an offense that is not traffic related or not a municipal code violation;
- (c) When the juvenile is taken into protective custody.

#### 324.10.2 PHOTOGRAPHING JUVENILES

The photographing of juveniles shall not be arbitrary or indiscriminate but shall meet the minimum standard or criteria of reasonable suspicion required for a lawful detention based on articulable facts. Using discretion photographs may be taken in the following instances:

- (a) When the juvenile is lawfully detained or arrested for a law violation;
- (b) When fingerprints or photographs are needed to establish or verify identity;
- (c) When the arrested juvenile is a suspect in an additional case, and a photographs is needed for a photo line-up;
- (d) When the supervisor or watch commander deems it necessary.

#### 324.10.3 FINGERPRINTING JUVENILES

All sworn personnel will be trained in the use of the AFIS/Live Scan Machine. The fingerprinting of a juvenile shall occur in accordance with the guidelines set forth in the Santa Clara County Protocols Section 14 - Juvenile Fingerprint/Data Entry Into CJIC.

- (a) Juvenile information may not be entered into the CJIC database without positive identification by fingerprints verified through AFIS.
- (b) All juveniles who are arrested and fingerprinted must have their associated PFN and CEN number recorded on a JCR which is forwarded to the Juvenile Probation Department.

Juveniles arrested for the following should be fingerprinted:

##### (a) **FELONY VIOLATIONS**

1. All juveniles arrested on any felony violation shall be fingerprinted using the AFIS/Live Scan Machines prior to being released or booked into Juvenile hall.
2. An exception to this is if the juvenile is under the influence of alcohol or drugs and the supervisor deems it necessary to release the juvenile at the hospital. If this were to occur, the juvenile's parents should be referred to the TSD Records Unit to ensure that the juvenile is fingerprinted at a later time.

##### (b) **MISDEMEANOR VIOLATIONS**

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1. A juvenile arrested on a misdemeanor offense shall not be fingerprinted without a compelling reason unless the offense is Penal Code §243.4 (a), (b), (c), (d) or (e), §243.4 (e) (1), §314.1 PC, §314.2 PC, or §417.

### 324.10.4 DISPOSITION OF JUVENILE OFFENDERS

In no event shall a juvenile be released on his/her own if the case falls under W&I § 300, those juveniles who have suffered, or there is a substantial risk that the child will suffer serious physical harm inflicted non-accidentally upon the child by the child's parent or guardian.

**Status offenders**, those juveniles who violate W&I § 601, are those who refuse to obey the reasonable and proper orders or directions from parents or guardians, school officials, and those who run away from home. Prior to legislation enacted in 1976, juveniles with these behaviors were detainable. Legislation prohibiting detention for these offenses also recommended that local governments establish a system of services for these juveniles to help keep them safe and out of trouble. In response, referral to the following agencies have proved to be beneficial:

- Eastfield Ming Quong
- Family and Children Services
- Adolescent Counseling Services
- KARA (Grief Support)
- Children's Shelter
- Bill Wilson Center

**Criminal offenders**, those juveniles who violate W&I § 602, are those who violate any law of this state other than those that fall under W&I § 601. In the majority of incidents, the juvenile will be cited and released back to a parent or guardian, or with the permission of a parent or guardian, released back to school officials.

Due to juvenile detention reform in Santa Clara County, only those juveniles involved in serious crimes will be allowed admittance into Juvenile Hall. Officers shall release juvenile offenders, including release to parents, release with a written promise to appear, release to a diversion program, or release to alternative community resources, unless one or more of the following circumstances exist:

- (a) The juvenile is 14 years old, or older and commits a violation specified in 707(b) W
- (b) An outstanding warrant exists for the juvenile, or a probation officer directs that the juvenile be incarcerated;
- (c) The release of the juvenile would create a continuing threat to public safety and/or an individual;
- (d) The crime is violent, serious, or involves a firearm;
- (e) Any crime involving domestic violence;

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- (f) When satisfactory evidence of identity cannot be established;
- (g) When a parent or guardian cannot be located
- (h) Release of the juvenile would compromise an investigation
- (i) The juvenile demands to be taken before a magistrate.

Exceptions for non release for a crime that does not fit the above listed criteria must be approved by a supervisor and documented on a JCR and arrest report.

#### **Community Alternative to Incarceration**

- (a) Palo Alto Police Officers can refer WI § 602 offenders who are not eligible to be admitted to juvenile hall to the Bill Wilson Center when the minor's parents are not available or not willing to accept their minor :

#### **Documentation**

All in-custody reports shall be completed no later than the end of the shift. The completed report is either faxed, or delivered, to the Probation Department. Under unusual circumstances, the patrol supervisor may authorize the completion of the report to be made on the following day. By law, W&I § 631, any decision to hold or detain a minor more than 24 hours must be reviewed and approved by a supervising probation officer. Therefore, it is imperative that the report be delivered to the Probation Department within 24 hours from the time of the minor's arrest.

#### **324.10.5 RELEASING THE MINOR TO DESIGNATED PERSONS**

When a parent is arrested and required to be booked into jail, and the parent has their child with them, the following considerations should be made for releasing or securing the child:

- (a) The supervisor, or watch commander shall be notified and consulted to establish a suitable disposition for the child;
- (b) If there are any circumstances that allege child abuse, neglect, or reasonable suspicion is raised regarding the suitability of the child's home, or of the person who is to take custody of the child, and then the child should be placed in the Children's Shelter;
- (c) In the absence of any known or alleged disqualifying condition, a child may, at the request of the arrested parent and with the approval of a supervisor, be released to a designated family member or other responsible adult known to the family whom the parent and the child trust. In such cases where a minor is released to an individual so designated by the parent, the investigating officer will document the request and disposition of the minor in the arrest report. The identity of the person taking custody of the child, as necessary, should be established with photo identification;
- (d) If the parent is reluctant about identifying or agreeing on who should take custody of the child, the child should be taken to the Children's Shelter. An exception might be when the child is old enough to care for himself or herself, such as a teenager, who may only need

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a ride home. In such cases, it is permissible to have a friend provide transportation for the teenager.

### **324.11 PERSONAL PROPERTY**

The officer taking custody of a juvenile offender or status offender at the Palo Alto Police Department shall ensure a thorough search of the juvenile's property is made and all property is removed from the juvenile, especially those items that could compromise safety, such as pens, pencils and belts.

The personal property of a juvenile should be placed in a property bag. The property should be inventoried in the juvenile's presence and sealed into the bag. The property should be kept in a monitored or secure location until the juvenile is released from the custody of the Palo Alto Police Department.

### **324.12 SECURE CUSTODY**

Only juvenile offenders 14 years of age or older may be placed in secure custody (Welfare and Institutions Code § 207; 15 CCR 1145). Watch Commander approval is required before placing a juvenile offender in secure custody.

Secure custody should only be used for juvenile offenders when there is a reasonable belief that the juvenile is a serious risk of harm to him/herself or others. Factors to be considered when determining if the juvenile offender presents a serious security risk to him/herself or others include the following (15 CCR 1145):

- (a) Age, maturity and delinquent history
- (b) Severity of offense for which the juvenile was taken into custody
- (c) The juvenile offender's behavior
- (d) Availability of staff to provide adequate supervision or protection of the juvenile offender
- (e) Age, type and number of other individuals in custody at the facility

Members of this department shall not use secure custody for convenience when non-secure custody is, or later becomes, a reasonable option (15 CCR 1145).

When practicable and when no locked enclosure is available, handcuffing one hand of a juvenile offender to a fixed object while otherwise maintaining the juvenile in non-secure custody should be considered as the method of secure custody. An employee must be present at all times to ensure the juvenile's safety while secured to a stationary object (15 CCR 1148).

Juveniles shall not be secured to a stationary object for more than 60 minutes. Supervisor approval is required to secure a juvenile to a stationary object for longer than 60 minutes and every 30 minutes thereafter (15 CCR 1148). Supervisor approval should be documented.

The decision for securing a minor to a stationary object for longer than 60 minutes and every 30 minutes thereafter shall be based upon the best interests of the juvenile offender (15 CCR 1148).

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### 324.12.1 LOCKED ENCLOSURES

A thorough inspection of the area shall be conducted before placing a juvenile into the enclosure. A second inspection shall be conducted after removing the juvenile. Any damage noted to the room should be photographed and documented in the crime report.

The following requirements shall apply to a juvenile offender who is held inside a locked enclosure:

- (a) The juvenile shall constantly be monitored by an audio/video system during the entire custody.
- (b) Juveniles shall have constant auditory access to department members (15 CCR 1147).
- (c) Initial placement into and removal from a locked enclosure shall be logged (Welfare and Institutions Code § 207.1(d)).
- (d) Unscheduled safety checks to provide for the health and welfare of the juvenile by a staff member, no less than once every 15 minutes, shall occur (Welfare and Institutions Code § 207.1(d); 15 CCR 1147; 15 CCR 1151).
  1. All safety checks shall be logged.
  2. The safety check should involve questioning the juvenile as to his/her well-being (sleeping juveniles or apparently sleeping juveniles should be awakened).
  3. Requests or concerns of the juvenile should be logged.
- (e) Males and females shall not be placed in the same locked room (15 CCR 1147).
- (f) Juvenile offenders should be separated according to severity of the crime (e.g., felony or misdemeanor).
- (g) Restrained juveniles shall not be mixed in a cell or room with unrestrained juveniles.

### **324.13 SUICIDE ATTEMPT, DEATH OR SERIOUS INJURY OF A JUVENILE**

The Watch Commander will ensure procedures are in place to address the suicide attempt, death or serious injury of any juvenile held at the Palo Alto Police Department (15 CCR 1142; 15 CCR 1047). The procedures will address:

- (a) Immediate notification of the on-duty supervisor, Chief of Police and Investigative Services Division Supervisor.
- (b) Notification of the parent, guardian or person standing in loco parentis, of the juvenile.
- (c) Notification of the appropriate prosecutor.
- (d) Notification of the City attorney.
- (e) Notification to the coroner.
- (f) Notification of the juvenile court.



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- (g) In the case of a death, providing a report to the Attorney General under Government Code § 12525 within 10 calendar days of the death, and forwarding the same report to the Board of State and Community Corrections within the same time frame (15 CCR 1046).
- (h) A medical and operational review of deaths and suicide attempts pursuant to 15 CCR 1046.
- (i) Evidence preservation.

### **324.14 INTERVIEWING OR INTERROGATING JUVENILE SUSPECTS**

No interview or interrogation of a juvenile should occur unless the juvenile has the apparent capacity to consent, and does consent to an interview or interrogation.

### **324.15 FORMAL BOOKING**

Officers shall follow the guidelines set forth in The Santa Clara County Protocols Section 11 - Juvenile Detention Reform when determining whether a juvenile offender shall be booked.

No juvenile offender shall be formally booked without the authorization of the arresting officer's supervisor, or in his/her absence, the Watch Commander.

### **324.16 RELEASE OF INFORMATION CONCERNING JUVENILES**

Court decisions and legislation have combined to carefully specify situations in which information may be given out or exchanged when a case involves a juvenile. Members of this department shall not divulge any information regarding juveniles unless they are certain of the legal authority to do so.

A copy of the current policy of the juvenile court concerning authorized release of information and appropriate acknowledgment forms shall be kept with copies of this procedure in the Palo Alto Police Department Policy Manual. Such releases are authorized by Welfare and Institutions Code § 827.

Welfare and Institutions Code § 828 authorizes the release of certain information to other agencies. It shall be the responsibility of the Records Manager and the appropriate Investigative Services supervisors to ensure that personnel of those bureaus act within legal guidelines.

### **324.17 BOARD OF STATE AND COMMUNITY CORRECTIONS CERTIFICATION**

The Field Services Division Captain shall coordinate the procedures related to the custody of juveniles held at the Palo Alto Police Department and ensure any required certification is maintained (Welfare and Institution Code § 210.2).

## Adult Abuse

### 326.1 PURPOSE AND SCOPE

This policy provides members of this department with direction and understanding of their role in the prevention, detection and intervention in incidents of adult abuse. It is the policy of the Palo Alto Police Department to treat reports of adult abuse as high priority criminal activity that is to be fully investigated regardless of the relationship between the victim and the suspects.

In addition to the policies and procedures contained in this Adult Abuse Policy, all personnel are required to read and follow the Santa Clara County Protocols Section 4 - Elder and Dependent Adult Abuse Protocol when investigating and responding to Adult Abuse investigations.

### 326.2 DEFINITIONS

Definitions related to this policy include:

**Adult Abuse** - Any offense or attempted offense involving violence or neglect of adults over the age of 65 or any offense or attempted offense involving a dependent adult victim committed by a caregiver. This also includes any other act that would mandate notification to a social service/licensing agency or law enforcement related to the abuse of an adult (Welfare and Institutions Code § 15610.07; Welfare and Institutions Code § 15610.27; Welfare and Institutions Code § 15610.23).

**Dependent Adult** - Any person residing in this state, between 18 and 64 years of age, who has physical or mental limitations that restrict his/her ability to carry out normal activities or to protect his/her rights including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. This includes any person between 18 and 64 years of age who is admitted as an inpatient to a 24-hour health facility, as defined in state law (Health and Safety Code § 1250; Health and Safety Code § 1250.2; Health and Safety Code § 1250.3).

### 326.3 MANDATORY NOTIFICATION

Any member who has observed or has knowledge of an incident that reasonably appears to be adult abuse, is told by an elder or dependent adult that he/she has experienced abuse or who reasonably suspects abuse, shall report to the county adult protective services agency as soon as practicable as provided in Welfare and Institutions Code § 15630.

For purposes of notification, abuse is physical abuse, abandonment, abduction, isolation, financial abuse or neglect. Physical abuse includes any assault or sex crime (Welfare and Institutions Code § 15610.63). Financial abuse includes taking personal or real property by undue influence or intent to defraud (Welfare and Institutions Code § 15610.30). Notification is also made in cases of abandonment, abduction, isolation and neglect (Welfare and Institutions Code § 15610.05; Welfare and Institutions Code § 15610.06; Welfare and Institutions Code § 15610.43; Welfare and Institutions Code § 15610.57).

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Notification should also be made to the following agencies as soon as practicable or as provided below (Welfare and Institutions Code § 15630):

- (a) If the abuse is physical abuse and occurred in a long-term care facility (not a state mental health hospital or a state developmental center) notification shall be made as follows (Welfare and Institutions Code § 15630(b)(1)):
  - 1. If there is serious bodily injury, notification shall be made by telephone and, within two hours, a written report shall be made to the local ombudsman and the corresponding licensing agency.
  - 2. If there is physical abuse and no serious bodily injury, notification shall be made by telephone and, within 24 hours, a written report shall be made to the local ombudsman and the corresponding licensing agency.
  - 3. If the abuse is allegedly caused by a resident with dementia and there is no serious bodily injury, notification shall be made by telephone and a written report to the local ombudsman within 24 hours.
- (b) If the abuse is in a long-term care facility (not a state mental health or a state developmental center) and is other than physical abuse, a telephone report and a written report shall be made to the local ombudsman.
- (c) The State Department of Public Health shall be notified of all known or suspected abuse occurring in a long-term facility.
- (d) The Bureau of Medi-Cal Fraud and Elder Abuse shall be notified of all abuse that constitutes criminal activity in a long-term care facility.
- (e) The District Attorney's office shall be notified of all cases of physical abuse and financial abuse in a long-term care facility.
- (f) If the abuse occurred at a state mental hospital or a state developmental center, notification shall be made to the designated investigators of the State Department of State Hospitals or the State Department of Developmental Services as soon as practicable but no later than two hours after law enforcement becomes aware of the abuse.
- (g) If the abuse occurred at a residential care facility for the elderly or adult day program, the State Department of Social Services shall be notified.
- (h) If the abuse occurred in an adult day health care center, the State Department of Public Health and the California Department of Aging shall be notified.

Failure to make a report within two working days or as provided is a misdemeanor (Welfare and Institutions Code § 15630(h)).

The Investigative Services supervisor is responsible for ensuring that proper notifications have occurred to the District Attorney's Office and any other regulatory agency that may be applicable

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based upon where the abuse took place (e.g., care facility, hospital) per Welfare and Institutions Code § 15630(b).

### **326.4 OFFICER'S RESPONSE**

All incidents involving actual or suspected adult abuse shall be fully investigated and appropriately documented.

#### **326.4.1 MENTAL HEALTH HOLDS**

When an elder (65 years and older) is taken on a Mental Health Hold per 5150 W&I, officers shall classify the report as Elder Abuse/Self Neglect and complete a Report of Suspected Dependent Adult/Elder Abuse form (SOC 341). The officer shall ensure that the SOC 341 form is forwarded to Adult Protective Services (APS) and make a phone report to APS immediately in order to cross report.

In cases of Mental Health Holds which involve subjects who are between the ages of 18-64, Investigative Services Division personnel will evaluate the details of the case and decide whether the subject should be classified as a "Dependent Adult". Those deemed Dependent Adults will be referred to APS.

## **Discriminatory Harassment**

### **328.1 PURPOSE AND SCOPE**

This policy is intended to prevent department members from being subjected to discrimination or sexual harassment.

### **328.2 POLICY**

The Palo Alto Police Department is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discriminatory harassment, including sexual harassment and retaliation. The Department will not tolerate discrimination against employees in hiring, promotion, discharge, compensation, fringe benefits and other privileges of employment. The Department will take preventive and corrective action to address any behavior that violates this policy or the rights it is designed to protect.

The non-discrimination policies of the Department may be more comprehensive than state or federal law. Conduct that violates this policy may not violate state or federal law but still could subject an employee to discipline.

### **328.3 DISCRIMINATION PROHIBITED**

#### **328.3.1 DISCRIMINATION**

The Department prohibits all forms of discrimination, including any employment-related action by an employee that adversely affects an applicant or employee and is based on race, color, religion, sex, age, national origin or ancestry, genetic information, disability, military service, sexual orientation and other classifications protected by law.

Discriminatory harassment, including sexual harassment, is verbal or physical conduct that demeans or shows hostility or aversion toward an individual based upon that individual's protected class. It has the effect of interfering with an individual's work performance or creating a hostile or abusive work environment.

Conduct that may, under certain circumstances, constitute discriminatory harassment, can include making derogatory comments, crude and offensive statements or remarks, making slurs or off-color jokes, stereotyping, engaging in threatening acts, making indecent gestures, pictures, cartoons, posters or material, making inappropriate physical contact, or using written material or department equipment and/or systems to transmit or receive offensive material, statements or pictures. Such conduct is contrary to department policy and to the department's commitment to a discrimination free work environment.

Retaliation is treating a person differently or engaging in acts of reprisal or intimidation against the person because he/she has engaged in protected activity, filed a charge of discrimination, participated in an investigation or opposed a discriminatory practice. Retaliation will not be tolerated.

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#### 328.3.2 SEXUAL HARASSMENT

The Department prohibits all forms of discrimination and discriminatory harassment, including sexual harassment. It is unlawful to harass an applicant or an employee because of that person's sex.

Sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors or other verbal, visual or physical conduct of a sexual nature when:

- (a) Submission to such conduct is made either explicitly or implicitly a term or condition of employment, position or compensation.
- (b) Submission to, or rejection of, such conduct is used as the basis for any employment decisions affecting the member.
- (c) Such conduct has the purpose or effect of substantially interfering with a member's work performance or creating an intimidating, hostile, or offensive work environment.

#### 328.3.3 ADDITIONAL CONSIDERATIONS

Discrimination and discriminatory harassment do not include actions that are in accordance with established rules, principles or standards, including:

- (a) Acts or omission of acts based solely upon bona fide occupational qualifications under Equal Employment Opportunity Commission and the Department of Fair Employment and Housing guidelines.
- (b) Bona fide requests or demands by a supervisor that an employee improve his/her work quality or output, that the employee report to the job site on time, that the employee comply with City or department rules or regulations, or any other appropriate work-related communication between supervisor and employee.

#### 328.4 RESPONSIBILITIES

This policy applies to all department personnel. All members shall follow the intent of these guidelines in a manner that reflects department policy, professional law enforcement standards and the best interest of the Department and its mission.

Members are encouraged to promptly report any discriminatory, retaliatory or harassing conduct or known violations of this policy to a supervisor. Any member who is not comfortable with reporting violations of this policy to his/her immediate supervisor may bypass the chain of command and make the report to a higher ranking supervisor or manager. Complaints may also be filed with the Chief of Police, the Personnel and Training Lieutenant or the City Manager.

Any member who believes, in good faith, that he/she has been discriminated against, harassed, subjected to retaliation, or who has observed harassment or discrimination, is encouraged to promptly report such conduct in accordance with the procedures set forth in this policy.

Supervisors and managers receiving information regarding alleged violations of this policy shall determine if there is any basis for the allegation and shall proceed with resolution as stated below.

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#### 328.4.1 SUPERVISOR RESPONSIBILITY

Each supervisor and manager shall:

- (a) Continually monitor the work environment and strive to ensure that it is free from all types of unlawful discrimination, including harassment or retaliation.
- (b) Take prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment or retaliation.
- (c) Ensure that their subordinates understand their responsibilities under this policy.
- (d) Ensure that members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.
- (e) Notify the Chief of Police or Personnel and Training Lieutenant in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment or retaliation no later than the next business day.

#### 328.4.2 SUPERVISOR'S ROLE

Because of differences in individual values, supervisors and managers may find it difficult to recognize that their behavior or the behavior of others is discriminatory, harassing or retaliatory. Supervisors and managers shall be aware of the following considerations:

- (a) Behavior of supervisors and managers should represent the values of our Department and professional law enforcement standards.
- (b) False or mistaken accusations of discrimination, harassment or retaliation can have negative effects on the careers of innocent members.
- (c) Supervisors and managers must act promptly and responsibly in the resolution of such situations.
- (d) Supervisors and managers shall make a timely determination regarding the substance of any allegation based upon all available facts.

Nothing in this section shall be construed to prevent supervisors or managers from discharging supervisory or management responsibilities, such as determining duty assignments, evaluating or counseling employees or issuing discipline, in a manner that is consistent with established procedures.

#### **328.5 INVESTIGATION OF COMPLAINTS**

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved member should take prompt and reasonable steps to mitigate or eliminate any continuing abusive or hostile work environment. It is the policy of the Department that all complaints of discrimination or harassment shall be fully documented and promptly and thoroughly investigated. The participating or opposing member should be protected against retaliation, and the complaint and related investigation should be kept confidential to the extent possible.

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### **328.5.1 SUPERVISORY RESOLUTION**

Members who believe they are experiencing discrimination, harassment or retaliation should be encouraged to inform the individual that his/her behavior is unwelcome. However, if the member feels uncomfortable, threatened or has difficulty expressing his/her concern, or if this does not resolve the concern, assistance should be sought from a supervisor or manager who is a rank higher than the alleged transgressor.

### **328.5.2 FORMAL INVESTIGATION**

If the complaint cannot be satisfactorily resolved through the process described above, a formal investigation will be conducted.

The employee assigned to investigate the complaint will have full authority to investigate all aspects of the complaint. Investigative authority includes access to records and the cooperation of any members involved. No influence will be used to suppress any complaint and no member will be subject to retaliation or reprisal for filing a complaint, encouraging others to file a complaint or for offering testimony or evidence in any investigation.

Formal investigation of the complaint will be confidential to the extent possible and will include, but not be limited to, details of the specific incident, frequency dates of occurrences and names of any witnesses. Witnesses will be advised regarding the prohibition against retaliation, and that a disciplinary process, up to and including termination, may result if retaliation occurs.

Members who believe they have been discriminated against, harassed or retaliated against because of their protected status are encouraged to follow the chain of command but may also file a complaint directly with the Chief of Police, Personnel and Training Lieutenant or the City Manager.

### **328.5.3 EQUAL OPPORTUNITY EMPLOYMENT COMPLAINTS**

No provision of this policy shall be construed to prevent any employee from seeking legal redress outside the Department. Employees who believe that they have been harassed or discriminated against are entitled to bring complaints of employment discrimination to federal, state and/or local agencies responsible for investigating such allegations. Specific time limitations apply to the filing of such charges. Employees are advised that proceeding with complaints under the provisions of this policy does not in any way affect those filing requirements.

### **328.6 NOTIFICATION OF DISPOSITION**

Complainant and/or victim will be notified in writing of the disposition of the investigation and action(s) taken to remedy the complaint.

### **328.7 DOCUMENTATION OF COMPLAINTS**

All complaints or allegations shall be thoroughly documented on forms and in a manner designated by the Chief of Police. The outcome of all reports shall be:

- Approved by the Chief of Police, the City Manager or the Personnel and Training Lieutenant if more appropriate



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- Maintained for the period established in the department's records retention schedule

### **328.8 TRAINING**

All new employees shall be provided with a copy of this policy as part of their orientation. The policy shall be reviewed with each new employee. The employee shall certify by signing the prescribed form that he/she has been advised of this policy, is aware of and understands its contents and agrees to abide by its provisions during his/her term of employment.

All employees shall receive annual training on the requirements of this policy and shall certify by signing the prescribed form that they have reviewed the policy, understand its contents and agree that they will continue to abide by its provisions.

#### **328.8.1 QUESTIONS REGARDING DISCRIMINATION OR SEXUAL HARASSMENT**

Members with questions regarding discrimination or sexual harassment are encouraged to contact a supervisor, manager, the Chief of Police, Personnel and Training Lieutenant or the City Manager, or they may contact the California Department of Fair Employment and Housing.

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## Child Abuse Investigations and Reporting

### 330.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation of suspected child abuse. This policy also addresses when Palo Alto Police Department members are required to notify the county Child Protective Services (CPS) of suspected child abuse.

### 330.2 POLICY

The Palo Alto Police Department will investigate all reported incidents of alleged criminal child abuse and ensure CPS is notified as required by law.

In addition to the policies and procedures contained in this Child Abuse Investigations and Reporting Policy, all personnel are required to read and follow the guidelines contained in Santa Clara County Protocols Section 2 - Child Abuse Protocol, when investigating and responding to child abuse investigations.

### 330.3 QUALIFIED INVESTIGATORS

Qualified investigators should be available for child abuse investigations. These investigators should:

- (a) Conduct interviews in child appropriate interview facilities.
- (b) Be familiar with forensic interview techniques specific to child abuse investigations.
- (c) Present all cases of alleged child abuse to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies and school administrators as needed.
- (e) Provide referrals to therapy services, victim advocates, guardians and support for the child and family as appropriate.
- (f) Participate in or coordinate with multidisciplinary investigative teams as applicable (Welfare and Institutions Code § 18961.7).

### 330.4 INVESTIGATIONS AND REPORTING

A crime report shall always be written for suspected/substantiated abuse, unfounded abuse neglect/endorsement, or any act which results in a non-accidental injury. Crime reports shall include a Juvenile Contact Report (JCR) if a child is taken into protective custody, and the "Suspected Child Abuse Report" Form SS8572.

When a patrol officer is dispatched to an active or on-view child abuse, he/she shall take appropriate steps to assure the safety of the child and the identification and/or apprehension of the suspect.

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### *Child Abuse Investigations and Reporting*

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In addition, investigations and reports related to suspected cases of child abuse should address, as applicable:

- (a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected child abuse victim was contacted.
- (b) The exigent circumstances that existed if officers interviewed the child victim without the presence of a parent or guardian.
- (c) Any relevant statements the child may have made and to whom he/she made the statements.
- (d) If a child was taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.
- (e) Documentation of any visible injuries or any injuries identified by the child. This should include photographs of such injuries, if practicable.
- (f) Whether the child victim was transported for medical treatment or a medical examination.
- (g) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other children who may reside in the residence.
- (h) Identification of any prior related reports or allegations of child abuse, including other jurisdictions, as reasonably known.
- (i) Previous addresses of the victim and suspect.
- (j) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

**INVESTIGATIVE SERVICES DIVISION:** When a Suspected Child Abuse Report is received by the Investigative Services Division, it will be routed through the Person Crimes supervisor. The Person Crimes supervisor will assign the case to a detective for follow-up investigation and ensure that the case has been cross-reported to DFCS.

The investigating detective shall coordinate his/her investigation and interviews with a DFCS social worker, to minimize the number of contacts and interviews with the victim(s). In addition to the guidelines set forth in the Santa Clara County Child Abuse Protocol, the duties of the detective assigned to investigate child abuse includes but is not limited to:

- (a) Responsibility for the investigation, the collection of evidence and preliminary preparation for prosecution of all cases of child abuse and molestation.
- (b) Investigating the deaths of children that could be attributed to abuse or molestation.
- (c) Investigating any instance of Sudden Infant Death (SID).
- (d) Investigating reports of unfit homes, child abandonment, child endangering or neglect.
- (e) Providing follow-up compliance calls on reports of suspected child abuse.

## *Child Abuse Investigations and Reporting*

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- (f) Providing appropriate training to patrol personnel.
- (g) Coordinating with other law enforcement agencies, social service agencies and school administrators as needed.
- (h) Conducting interviews in child appropriate interview facilities.
- (i) Be familiar with forensic interview techniques specific to child abuse investigations.
- (j) Present all cases of alleged child abuse to the prosecutor for review.
- (k) Provide referrals to therapy services, victim advocates, guardians and support for the child and family as appropriate.
- (l) Participate in or coordinate with multidisciplinary investigative teams as applicable (Welfare and Institutions Code 18961.7).

### **330.4.1 EXTRA JURISDICTIONAL REPORTS**

If a report of known or suspected child abuse or neglect that is alleged to have occurred outside this jurisdiction is received, department members shall ensure that the caller is immediately transferred to the agency with proper jurisdiction for the investigation of the case. If the caller cannot be successfully transferred to the appropriate agency, a report shall be taken and immediately referred by telephone, fax or electronic transfer to the agency with proper jurisdiction (Penal Code 11165.9).

### **330.5 PROTECTIVE CUSTODY**

Whenever an officer deems it necessary to take a child into protective custody the officer shall immediately notify a supervisor or Investigative Services Person Crimes Supervisor and obtain his/her approval. If prior notification is not practicable, officers should contact a supervisor promptly after taking a child into protective custody.

See the Santa Clara County Protocols Section 2 - Child Abuse Protocol, subsection two - Protective Custody, for specific guidelines regarding taking a child into protective custody.

### **330.5.1 CALIFORNIA SAFELY SURRENDERED BABY LAW**

An individual having lawful custody of an infant less than 72 hours old is not guilty of abandonment if the individual voluntarily surrenders physical custody of the infant to personnel on-duty at a safe-surrender site, such as a hospital or fire department (Penal Code § 271.5). The law requires the surrender site to notify CPS.

### **330.6 INTERVIEWS**

#### **330.6.1 PRELIMINARY INTERVIEWS**

Absent extenuating circumstances or impracticality, officers should record the preliminary interview with suspected child abuse victims. Officers should avoid multiple interviews with a child victim and should attempt to gather only the information necessary to begin an investigation. When practicable, investigating officers should defer interviews until a person who is specially trained

## *Child Abuse Investigations and Reporting*

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in such interviews is available. Generally, child victims should not be interviewed in the home or location where the alleged abuse occurred.

Patrol officers should interview all parties involved, including children, separately. If the case involves severe, ongoing, physical or sexual abuse or severe neglect, the Investigative Services Division Person Crimes supervisor should be contacted for assistance from a child abuse detective. At this point consideration should be given to scheduling a Multi-Disciplinary Interview (MDI), and the patrol officer should conduct basic interviews only to determine jurisdiction, and elements of at least one crime.

### **330.6.2 DETAINING SUSPECTED CHILD ABUSE VICTIMS FOR AN INTERVIEW**

An officer should not detain a child involuntarily who is suspected of being a victim of child abuse solely for the purpose of an interview or physical exam without the consent of a parent or guardian unless one of the following applies:

(a) Exigent circumstances exist, such as:

1. A reasonable belief that medical issues of the child need to be addressed immediately.
2. A reasonable belief that the child is or will be in danger of harm if the interview or physical exam is not immediately completed.
3. The alleged offender is the custodial parent or guardian and there is reason to believe the child may be in continued danger.

(b) A court order or warrant has been issued.

### **330.6.3 INTERVIEWS AT A SCHOOL**

Any student at school who is a suspected victim of child abuse shall be afforded the option of being interviewed in private or selecting any qualified available adult member of the school staff to be present. The purpose of the staff member's presence is to provide comfort and support. The staff member shall not participate in the interview. The selection of a staff member should be such that it does not burden the school with costs or hardship (Penal Code § 11174.3). The officer shall inform the child of that right prior to the interview.

In addition, the officer should notify the school administration (Principal) that he/she is conducting a child abuse investigation. The officer should not reveal any specific details concerning the type of abuse or suspect information. The staff member should be instructed not to discuss the facts or circumstances of the case with the child or participate in the interview. No member of the school staff can demand to be present at an interview. It is solely up to the child to initiate a request for support after being told by the officer that he or she has the right to do so.

## **330.7 STATE MANDATES AND OTHER RELEVANT LAWS**

California requires or permits the following:

## *Child Abuse Investigations and Reporting*

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### 330.7.1 RELEASE OF REPORTS

Information related to incidents of child abuse or suspected child abuse shall be confidential and may only be disclosed pursuant to state law and the Release of Records and Information Policy (Penal Code 841.5; Penal Code § 11167.5).

### 330.7.2 REQUESTS FOR REMOVAL FROM THE CHILD ABUSE CENTRAL INDEX (CACI)

Any person whose name has been forwarded to the California Department of Justice (DOJ) for placement in California's CACI, as a result of an investigation, may request that his/her name be removed from the CACI list. Requests shall not qualify for consideration if there is an active case, ongoing investigation or pending prosecution that precipitated the entry to CACI (Penal Code § 11169). All requests for removal shall be submitted in writing by the requesting person and promptly routed to the CACI hearing officer.

### 330.7.3 CACI HEARING OFFICER

The Investigative Services supervisor will normally serve as the hearing officer but must not be actively connected with the case that resulted in the person's name being submitted to CACI. Upon receiving a qualified request for removal, the hearing officer shall promptly schedule a hearing to take place during normal business hours and provide written notification of the time and place of the hearing to the requesting party.

### 330.7.4 CACI HEARING PROCEDURES

The hearing is an informal process where the person requesting removal from the CACI list will be permitted to present relevant evidence (e.g., certified copy of an acquittal, factual finding of innocence) as to why his/her name should be removed. The person requesting the hearing may record the hearing at his/her own expense.

Formal rules of evidence will not apply and the hearing officer may consider, in addition to evidence submitted by the person requesting the hearing, any relevant information including, but not limited to, the following:

- (a) Case reports including any supplemental reports
- (b) Statements by investigators
- (c) Statements from representatives of the District Attorney's Office
- (d) Statements by representatives of a child protective agency who may be familiar with the case

After considering all information presented, the hearing officer shall make a determination as to whether the requesting party's name should be removed from the CACI list. Such determination shall be based on a finding that the allegations in the investigation are not substantiated (Penal Code § 11169).

If, after considering the evidence, the hearing officer finds that the allegations are not substantiated, he/she shall cause a request to be completed and forwarded to the DOJ that the person's name be removed from the CACI list. A copy of the hearing results and the request for removal will be attached to the case reports.

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The findings of the hearing officer shall be considered final and binding.

## Missing Person Reporting

### 332.1 PURPOSE AND SCOPE

This policy provides guidance for handling missing person investigations.

#### 332.1.1 DEFINITIONS

**At risk** - Includes, but is not limited to (Penal Code § 14213) the following:

- A victim of a crime or foul play
- A person missing and in need of medical attention
- A missing person with no pattern of running away or disappearing
- A missing person who may be the victim of parental abduction
- A mentally impaired missing person

**Missing Person** - Any person who is reported missing to law enforcement when the person's location is unknown. This includes a child who has been taken, detained, concealed, enticed away or kept by a parent in violation of the law (Penal Code § 277 et seq.). It also includes any child who is missing voluntarily, involuntarily or under circumstances that do not conform to his/her ordinary habits or behavior, and who may be in need of assistance (Penal Code § 14213).

**Missing person networks** - Those databases or computer networks available to law enforcement and that are suitable for information related to missing persons investigations. These include the National Crime Information Center (NCIC), the California Law Enforcement Telecommunications System (CLETS), Missing Person System (MPS) and the Unidentified Persons System (UPS).

### 332.2 POLICY

The Palo Alto Police Department does not consider any report of a missing person to be routine and assumes that the missing person is in need of immediate assistance until the facts reveal otherwise. The Palo Alto Police Department gives missing person cases priority over property-related cases and will not require any time frame to pass before beginning a missing person investigation (Penal Code § 14205).

### 332.3 REQUIRED FORMS AND DNA COLLECTION KITS

The Investigative Services supervisor should ensure the forms and kits are developed and available in accordance with this policy, state law, federal law and the California Peace Officer Standards and Training (POST) [Missing Persons Investigations](#) guidelines, including:

- Department report form for use in missing person cases
- Missing Person Investigation Checklist, providing investigation guidelines and resources available in the early hours of a missing person investigation (Penal Code § 13519.07)
- Missing Person School Notification Form



## *Missing Person Reporting*

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- Medical Records Release Form from the California Department of Justice
- California DOJ missing person forms as appropriate
- DNA Missing Persons Specimen Collection Kits

### **332.4 ACCEPTANCE OF REPORTS**

Any employee encountering a person who wishes to report a missing person or runaway shall render assistance without delay (Penal Code § 14205). This can be accomplished by accepting the report via telephone or in-person and initiating the investigation. Those employees who do not take such reports or who are unable to render immediate assistance shall promptly dispatch or alert an employee who can take the report.

A report shall be accepted in all cases and regardless of where the person was last seen, where the person resides or any other question of jurisdiction (Penal Code § 14205).

### **332.5 INITIAL INVESTIGATION**

Officers or other employees conducting the initial investigation of a missing person should take the following investigative actions, as applicable:

- (a) Respond to a dispatched call for service as soon as practicable.
- (b) Interview the reporting person and any witnesses to determine whether the person qualifies as a missing person and, if so, whether the person may be at risk.
- (c) Notify a supervisor immediately if there is evidence that a missing person is either at risk or may qualify for a public alert, or both (see the Public Alerts Policy).
- (d) Broadcast a #Be on the Look-Out# (BOLO) bulletin if the person is under 16 years of age or there is evidence that the missing person is at risk. The BOLO should be broadcast as soon as practicable but in no event more than one hour after determining the missing person is under 16 or may be at risk (Penal Code § 14205).
- (e) Ensure that entries are made into the appropriate missing person networks as follows:
  1. Immediately, when the missing person is at risk.
  2. In all other cases, as soon as practicable, but not later than two hours from the time of the initial report.
- (f) Complete the appropriate report forms accurately and completely and initiate a search as applicable under the facts.
- (g) Collect and/or review the following:
  1. A photograph and a fingerprint card of the missing person, if available.
  2. A voluntarily provided biological sample of the missing person, if available (e.g., toothbrush, hairbrush).

## *Missing Person Reporting*

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3. Any documents that may assist in the investigation, such as court orders regarding custody.
  4. Any other evidence that may assist in the investigation, including personal electronic devices (e.g., cell phones, computers).
- (h) When circumstances permit and if appropriate, attempt to determine the missing person's location through their telecommunications carrier.
- (i) Contact the appropriate agency if the report relates to a previously made missing person report and another agency is actively investigating that report. When this is not practical, the information should be documented in an appropriate report for transmission to the appropriate agency. If the information relates to an at-risk missing person, the officer should notify a supervisor and proceed with reasonable steps to locate the missing person.

### **332.6 REPORT PROCEDURES AND ROUTING**

Employees should complete all missing person reports and forms promptly and advise the appropriate supervisor as soon as a missing person report is ready for review.

#### **332.6.1 SUPERVISOR RESPONSIBILITIES**

The supervisor shall review and approve missing person reports upon receipt and ensure resources are deployed as appropriate. The reports should be promptly sent to Technical Services Division.

The supervisor shall also ensure applicable notifications and public alerts are made and documented and that records have been entered into the appropriate missing person networks.

The supervisor should also take reasonable steps to identify and address any jurisdictional issues to ensure cooperation between agencies.

#### **332.6.2 TECHNICAL SERVICES DIVISION RESPONSIBILITIES**

The receiving employee shall:

- (a) As soon as reasonable under the circumstances, notify and forward a copy of the report to the law enforcement agency having jurisdiction over the missing person's residence in cases where the missing person is a resident of another jurisdiction (Penal Code § 14205).
- (b) Notify and forward a copy of the report to the law enforcement agency in whose jurisdiction the missing person was last seen.
- (c) Notify and forward a copy of the report to the law enforcement agency having jurisdiction over the missing person's intended or possible destination, if known (Penal Code § 14205).
- (d) Forward a copy of the report to the Investigative Services.

### **332.7 INVESTIGATIVE SERVICES FOLLOW-UP**

The investigator assigned to a missing person investigation:

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- (a) Shall ensure that the missing person's school is notified within 10 days if the missing person is a juvenile.
  - 1. The notice shall be in writing and should also include a photograph (Education Code § 49068.6).
  - 2. The investigator should meet with school officials regarding the notice as appropriate to stress the importance of including the notice in the child's student file, along with contact information if the school receives a call requesting the transfer of the missing child's files to another school.
- (b) Should recontact the reporting person and/or other witnesses within 30 days of the initial report and within 30 days thereafter to determine if any additional information has become available via the reporting party.
- (c) Should consider contacting other agencies involved in the case to determine if any additional information is available.
- (d) Shall verify and update CLETS, NCIC and any other applicable missing person networks within 60 days of the original entry into the networks and every 45 days thereafter until the missing person is located (42 USC § 5780).
- (e) Should continue to make reasonable efforts to locate the missing person and document these efforts at least every 45 days.
- (f) Shall maintain a close liaison with the National Center for Missing and Exploited Children® (NCMEC) if the missing person is under the age of 21 (42 USC § 5780).
- (g) Should make appropriate inquiry with the coroner or medical examiner.
- (h) Should obtain and forward medical records, photos, X-rays and biological samples pursuant to Penal Code § 14206 and Penal Code § 14250.
- (i) Shall attempt to obtain the most recent photograph for persons under 18 years of age if it has not previously been obtained and forward the photograph to California DOJ (Penal Code § 14209).
- (j) Should consider making appropriate entries and searches in the National Missing and Unidentified Persons System (NamUs).

### **332.8 WHEN A MISSING PERSON IS FOUND**

When any person reported missing is found, the assigned investigator shall document the location of the missing person in the appropriate report, notify the reporting party and other involved agencies and refer the case for additional investigation if warranted.

The Records Manager shall ensure that, upon receipt of information that a missing person has been located, the following occurs:

- (a) Notification is made to California DOJ.

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- (b) The missing person's school is notified.
- (c) Entries are made in the applicable missing person networks (Penal Code § 14207).
- (d) When a child under 12 years of age or a person who is at risk is found, the report of finding shall be made within 24 hours to the California Attorney General's Office (Penal Code § 14207(b)).
- (e) Notification shall be made to any other law enforcement agency that took the initial report or participated in the investigation (Penal Code § 14207(b)).

### **332.8.1 UNIDENTIFIED PERSONS**

Department members investigating a case of an unidentified person who is deceased or a living person who cannot assist in identifying him/herself should:

- (a) Obtain a complete description of the person.
- (b) Enter the unidentified person's description into the NCIC Unidentified Person File.
- (c) Use available resources, such as those related to missing persons, to identify the person.

### **332.9 CASE CLOSURE**

The Investigative Services supervisor may authorize the closure of a missing person case after considering the following:

- (a) Closure is appropriate when the missing person is confirmed returned or evidence has matched an unidentified person or body.
- (b) If the missing person was a resident of Palo Alto or this department is the lead agency, the case should be kept under active investigation for as long as the person may still be alive. Exhaustion of leads in the investigation should not be a reason for closing a case.
- (c) If this department is not the lead agency, the case can be made inactive if all investigative leads have been exhausted, the lead agency has been notified and entries are made in the applicable missing person networks as appropriate.
- (d) A missing person case should not be closed or reclassified because the person would have reached a certain age or adulthood or because the person is now the subject of a criminal or civil warrant.

### **332.10 TRAINING**

Subject to available resources, the Personnel and Training Lieutenant should ensure that members of this department whose duties include missing person investigations and reports receive regular training that includes:

- (a) The initial investigation:
  - 1. Assessments and interviews
  - 2. Use of current resources, such as Mobile Audio Video (MAV)

## *Missing Person Reporting*

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3. Confirming missing status and custody status of minors
  4. Evaluating the need for a heightened response
  5. Identifying the zone of safety based on chronological age and developmental stage
- (b) Briefing of department members at the scene.
  - (c) Identifying NCIC Missing Person File categories (e.g., disability, endangered, involuntary, juvenile and catastrophe).
  - (d) Verifying the accuracy of all descriptive information.
  - (e) Initiating a neighborhood investigation.
  - (f) Investigating any relevant recent family dynamics.
  - (g) Addressing conflicting information.
  - (h) Key investigative and coordination steps.
  - (i) Managing a missing person case.
  - (j) Additional resources and specialized services.
  - (k) Update procedures for case information and descriptions.
  - (l) Preserving scenes.
  - (m) Internet and technology issues (e.g., Internet use, cell phone use).
  - (n) Media relations.

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## Public Alerts

### 334.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for alerting the public to important information and soliciting public aid when appropriate.

### 334.2 POLICY

Public alerts may be employed using the Emergency Alert System (EAS), local radio, television and press organizations and other means to notify the public of incidents, or enlist the aid of the public, when the exchange of information may enhance the safety of the community. Various types of alerts may be available based upon each situation and the alert system's individual criteria.

### 334.3 RESPONSIBILITIES

#### 334.3.1 EMPLOYEE RESPONSIBILITIES

Employees of the Palo Alto Police Department should notify their supervisor, Watch Commander or Investigative Services Supervisor as soon as practicable upon learning of a situation where public notification, a warning or enlisting the help of the media and public could assist in locating a missing person, apprehending a dangerous person or gathering information.

#### 334.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor apprised of the need for a public alert is responsible to make the appropriate notifications based upon the circumstances of each situation. The supervisor shall promptly notify the Chief of Police, the appropriate Division Captain and the Public Information Officer when any public alert is generated.

The supervisor in charge of the investigation to which the alert relates is responsible for the following:

- (a) Updating alerts
- (b) Canceling alerts
- (c) Ensuring all appropriate reports are completed
- (d) Preparing an after-action evaluation of the investigation to be forwarded to the Division Captain

### 334.4 AMBER ALERTS

The AMBER Alert™ Program is a voluntary partnership between law enforcement agencies, broadcasters, transportation agencies and the wireless industry, to activate urgent bulletins in child abduction cases.

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### *Public Alerts*

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#### 334.4.1 CRITERIA FOR AMBER ALERT

The following conditions must be met before activating an AMBER Alert (Government Code 8594(a)):

- (a) Abduction has been determined to have occurred.
- (b) The victim is 17 years of age or younger, or has a proven mental or physical disability.
- (c) The victim is in imminent danger of serious injury or death.
- (d) There is information available that, if provided to the public, could assist in the child's safe recovery.

#### 334.4.2 PROCEDURE FOR AMBER ALERT

Amber Alert notifications shall occur in accordance with the guidelines set forth in the Santa Clara County Protocols Section 1 - Child Abduction Protocol Subsection F. Alert Systems. Personnel shall read and follow the guidelines set forth in the Santa Clara County Protocols Section 1 - Child Abduction Protocol Subsection F. Alert Systems when implementing an Amber Alert.

The supervisor in charge will ensure the following:

- (a) An initial press release is prepared that includes all available information that might aid in locating the child:
  - 1. The child's identity, age and description
  - 2. Photograph if available
  - 3. The suspect's identity, age and description, if known
  - 4. Pertinent vehicle description
  - 5. Detail regarding location of incident, direction of travel, potential destinations, if known
  - 6. Name and telephone number of the Press Information Officer or other authorized individual to handle media liaison
  - 7. A telephone number for the public to call with leads or information
- (b) The local California Highway Patrol communications center should be contacted to initiate a multi-regional or statewide EAS broadcast, following any policies and procedures developed by CHP (Government Code § 8594).
- (c) The press release information is forwarded to the Sheriff's Department Emergency Communications Bureau so that general broadcasts can be made to local law enforcement agencies.
- (d) Information regarding the missing person should be entered into the California Law Enforcement Telecommunication System (CLETS).

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- (e) Information regarding the missing person should be entered into the California Department of Justice Missing and Unidentified Persons System (MUPS)/National Crime Information Center (NCIC).
- (f) The following resources should be considered as circumstances dictate:
  - 1. The local FBI office
  - 2. National Center for Missing and Exploited Children (NCMEC)

### **334.5 BLUE ALERTS**

Blue Alerts may be issued when an officer is killed, injured or assaulted and the suspect may pose a threat to the public or other law enforcement personnel.

#### **334.5.1 CRITERIA FOR BLUE ALERTS**

All of the following conditions must be met before activating a Blue Alert (Government Code § 8594.5):

- (a) A law enforcement officer has been killed, suffered serious bodily injury or has been assaulted with a deadly weapon, and the suspect has fled the scene of the offense.
- (b) The investigating law enforcement agency has determined that the suspect poses an imminent threat to the public or other law enforcement personnel.
- (c) A detailed description of the suspect's vehicle or license plate is available for broadcast.
- (d) Public dissemination of available information may help avert further harm or accelerate apprehension of the suspect.

#### **334.5.2 PROCEDURE FOR BLUE ALERT**

The supervisor in charge should ensure the following:

- (a) An initial press release is prepared that includes all available information that might aid in locating the suspect:
  - 1. The license number and/or any other available description or photograph of the vehicle
  - 2. Photograph, description and/or identification of the suspect
  - 3. The suspect's identity, age and description, if known
  - 4. Detail regarding location of incident, direction of travel, potential destinations, if known
  - 5. Name and telephone number of the Press Information Officer or other authorized individual to handle media liaison
  - 6. A telephone number for the public to call with leads or information



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- (b) The local California Highway Patrol communications center is contacted to initiate a multi-regional or statewide EAS broadcast.
- (c) The information in the press release is forwarded to the Sheriff's Department Emergency Communications Bureau so that general broadcasts can be made to local law enforcement agencies.
- (d) The following resources should be considered as circumstances dictate:
  - 1. Entry into the California Law Enforcement Telecommunication System (CLETS)
  - 2. The FBI local office

#### **334.6 SILVER ALERTS**

Silver Alerts® is an emergency notification system for people who are 65 years of age or older and have been reported missing.

##### 334.6.1 CRITERIA FOR SILVER ALERTS

All of the following conditions must be met before activating a Silver Alert (Government Code § 8594.10):

- (a) The missing person is 65 years of age or older.
- (b) The department has utilized all available local resources.
- (c) The investigating officer or supervisor has determined that the person is missing under unexplained or suspicious circumstances.
- (d) The investigating officer or supervisor believes that the person is in danger because of age, health, mental or physical disability, environment or weather conditions, that the person is in the company of a potentially dangerous person, or that there are other factors indicating that the person may be in peril.
- (e) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

##### 334.6.2 PROCEDURE FOR SILVER ALERT

Requests for a Silver Alert shall be made through the California Highway Patrol.

## Victim and Witness Assistance

### 336.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that crime victims and witnesses receive appropriate assistance, that they are provided with information from government and private resources, and that the agency meets all related legal mandates.

### 336.2 POLICY

The Palo Alto Police Department is committed to providing guidance and assistance to the victims and witnesses of crime. The employees of the Palo Alto Police Department will show compassion and understanding for victims and witnesses and will make reasonable efforts to provide the support and information identified in this policy.

### 336.3 CRIME VICTIM LIAISON

The Chief of Police may appoint a member of the Department to serve as the crime victim liaison. The crime victim liaison will be the point of contact for individuals requiring further assistance or information from the Palo Alto Police Department regarding benefits from crime victim resources. This person shall also be responsible for maintaining compliance with all legal mandates related to crime victims and/or witnesses.

#### 336.3.1 SPECIFIC VICTIM LIAISON DUTIES

The Chief of Police shall designate a crime victim liaison officer as liaison to the Victim-Witness Assistance Program office. It shall be his/her responsibility to forward copies of police reports requested by the local victim centers to verify the criminal activity upon which the application for assistance is based. The liaison officer shall carry out the functions required by state law; and devise and implement written procedures to notify and provide the required compensation information. The Release of Records and Information Policy in this manual regarding the release of reports shall be followed in all cases (Government Code § 13962(b); 2 CCR 649.35; 2 CCR 649.36).

### 336.4 CRIME VICTIMS

Officers should provide all victims with the applicable victim information handouts.

Officers should never guarantee a victim's safety from future harm but may make practical safety suggestions to victims who express fear of future harm or retaliation. Officers should never guarantee that a person qualifies as a victim for the purpose of compensation or restitution but may direct him/her to the proper written department material or available victim resources.

### 336.5 VICTIM INFORMATION

The Administrative Services Supervisor shall ensure that victim information handouts are available and current. These should include as appropriate:

- (a) Shelters and other community resources for victims of domestic violence.

## *Victim and Witness Assistance*

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- (b) Community resources for victims of sexual assault.
- (c) Assurance that sexual assault victims will not incur out-of-pocket expenses for forensic medical exams (42 USC § 3796gg; Penal Code § 13823.95(a)).
- (d) An explanation that no victim of sexual assault shall be required to participate or agree to participate in the criminal justice system, either prior to examination or at any other time (Penal Code § 13823.95(b)).
- (e) An advisement that a person who was arrested may be released on bond or some other form of release and that the victim should not rely upon an arrest as a guarantee of safety.
- (f) A clear explanation of relevant court orders and how they can be obtained.
- (g) Information regarding available compensation for qualifying victims of crime.
- (h) VINE® information (Victim Information and Notification Everyday), including the telephone number and whether this free service is available to allow victims to check on an offender's custody status and to register for automatic notification when a person is released from jail.
- (i) Notice regarding U-Visa and T-Visa application processes.
- (j) Resources available for victims of identity theft.
- (k) A place for the officer's name, badge number and any applicable case or incident number.
- (l) Any additional information required by state law (Penal Code § 13701; Penal Code § 679.02; Penal Code § 679.05; Penal Code § 679.026).

### **336.6 WITNESSES**

Officers should never guarantee a witness' safety from future harm or that his/her identity will always remain confidential. Officers may make practical safety suggestions to witnesses who express fear of future harm or retaliation.

Officers should investigate allegations of witness intimidation and take enforcement action when lawful and reasonable.

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## Hate Crimes

### 338.1 PURPOSE AND SCOPE

This department recognizes and places a high priority on the rights of all individuals guaranteed under the Constitution and the laws of this state. When such rights are infringed upon by violence, threats or other harassment, this department will utilize all available resources to see that justice is served under the law. This policy has been developed to meet or exceed the provisions of Penal Code § 13519.6(c) and provides members of this department with guidelines for identifying and investigating incidents and crimes that may be motivated by hatred or other bias.

The Palo Alto Police Department hate crimes policy is drafted in accordance with the Santa Clara County Protocols. Personnel are required to read and follow the additional guidelines set forth in the Santa Clara County Protocols Section 10 - Santa Clara County Law Enforcement Policy Statement Regarding Hate Crimes.

### 338.2 DEFINITIONS

**Hate crimes** - Penal Code § 422.55(a) defines a hate crime as a criminal act committed in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

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

The federal Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act expands federal hate crimes to include crimes motivated by a victim's actual or perceived sex, sexual orientation, gender identity or disability (18 USC § 245).

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### **338.3 PREVENTING AND PREPARING FOR LIKELY HATE CRIMES**

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

- (a) Officers should make an affirmative effort to establish contact with persons and groups within the community, who are likely targets of hate crimes, to form and cooperate with prevention and response networks.
- (b) Accessing assistance by, among other things, activating the California Department of Justice Hate Crime Rapid Response Protocol when necessary.
- (c) Providing victim assistance and follow-up as outlined below, including community follow-up.

#### **338.3.1 REPORTING**

Hate crime laws have been upheld by the United States Supreme Court as constitutional, and not a violation of one's first amendment right to speech, when the speech incites/encourages hate motivated violence or crime. Penal Code §415.3 also addresses the use of offensive words in public, which will provoke immediate violent reaction. The victims of bias related crime, and the communities we serve expect and deserve swift response, thorough investigation, apprehension of suspects, and prosecution of suspects, when it comes to reported bias incidents. Finally, even if no crime can be attached to reported biased related behavior, a hate incident investigation should be initiated, perpetrators and/or the group they are associated with should be identified, and a report should be completed. Hate crimes are important to document and to differentiate from other forms of crime because of their uniquely violent and assault characteristic, the trauma sustained by the victims, the threat they pose to community stability, and the potential for community unrest.

Other concepts to consider when investigating bias related incidents/crimes:

- (a) Bias related vandalisms must involve a specific target, such as an individual, property of an individual, or residence in order to charge Penal Code §422.6.
- (b) Vandalisms which are bias in nature associated with a private institution or public agency (houses of worship, religious/ethnic organizations or businesses, etc.) must be a felony (\$400.00) in nature for a hate crime to be charged. All other bias related vandalisms would be labeled hate related incidents.
- (c) Obscene or threatening phone calls when containing threats, derogatory content, slurs directed at one who is a member or suspected of being a member of a protected class as defined in the definition of hate crime in this general order are to be considered bias crimes.

When an incident is determined to be prejudice based in nature, the officer will list the offense as a Hate Crime. The classification will be one of the following: Interfere w/ another's civil rights, battery, assault w/ a deadly weapon, desecration, vandalism, other (incident in nature, leafletting w/out a permit, etc.)

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**338.4 PROCEDURE FOR INVESTIGATING HATE CRIMES**

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

- (a) Officer(s) will be promptly assigned to contact the victim, witness, or reporting party to investigate the matter further as circumstances may dictate
- (b) A supervisor should be notified of the circumstances as soon as practical
- (c) Once #in progress# aspects of any such situation have been stabilized (e.g., treatment of victims, apprehension of present suspects, etc.), the assigned officer(s) will take all reasonable steps to preserve available evidence that may tend to establish that a hate crime was involved
- (d) The assigned officer(s) will interview available witnesses, victims and others to determine what circumstances, if any, indicate that the situation may involve a hate crime. No victim of or a witness to a hate crime who is not otherwise charged with or convicted of a crime under state law may be detained for or turned over to federal authorities exclusively for any actual or suspected immigration violation (Penal Code § 422.93(b))
- (e) Depending on the situation, the assigned officer(s) or supervisor may request additional assistance from detectives or other resources to further the investigation
- (f) The assigned officer(s) will include all available evidence indicating the likelihood of a hate crime in the relevant report(s). All related reports will be clearly marked as #Hate Crimes# and, absent prior approval of a supervisor, will be completed and submitted by the assigned officer(s) before the end of the shift
- (g) The assigned officer(s) will provide the victim(s) of any suspected hate crime with a brochure on hate crimes (Penal Code § 422.92). Such brochures will also be available to members of the general public upon request. The assigned officer(s) should also make reasonable efforts to assist the victim(s) by providing available information on local assistance programs and organizations
- (h) The assigned officer(s) and supervisor should take reasonable steps to ensure that any such situation does not escalate further (e.g., Possible Temporary Restraining Order through the District Attorney or City Attorney Penal Code § 136.2 or Civil Code § 52.1 as indicated).

**338.4.1 INVESTIGATIVE SERVICES RESPONSIBILITY**

If a case is assigned to the Investigative Services, the assigned detective will be responsible for following up on the reported hate crime as follows:

- (a) Coordinate further investigation with the District Attorney and other appropriate law enforcement agencies, as appropriate
- (b) Maintain contact with the victim(s) and other involved individuals as needed
- (c) Maintain statistical data on suspected hate crimes and tracking as indicated and report such data to the Attorney General upon request pursuant to Penal Code § 13023

## *Hate Crimes*

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### 338.4.2 SUPERVISORS RESPONSIBILITY

Field Supervisors who respond to the scene of a reported or suspected hate or bias related crime should:

- (a) Notify the watch commander;
- (b) Ensure the elements of the crime/incident are present;
- (c) Supervise the preliminary investigation;
- (d) Coordinate scene security;
- (e) Coordinate plan of action with investigating officer to ensure a thorough investigation, interviews, and case completion;
- (f) Assist in the stabilization of victim(s), if necessary;
- (g) Take steps to insure that the incident does not escalate;
- (h) Take steps to insure that the victim and witness receive adequate neighborhood protection via TRO's, patrol checks, etc. when necessary;
- (i) Notify PIO. Approval should be obtained from a Captain or the Police Chief prior to the release of information;
- (j) Insure proper and thorough collection of evidence.

### 338.4.3 RECORDS UNIT

The Records Unit insures that state and federal justice Departments receive reports of hate crimes and hate incidents, which occur within the jurisdiction of Palo Alto.

The Records Unit will maintain statistical data on suspected hate crimes and tracking as indicated and report such data to the Attorney General upon request pursuant to Penal Code § 13023.

### **338.5 TRAINING**

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

## Conduct

### 340.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of this department and are expected of its members. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions but they do identify many of the important matters concerning member conduct. Members are also subject to provisions contained throughout this manual as well as any additional guidance on conduct that may be disseminated by the Department or the member's supervisors.

This policy applies to all employees (full- and part-time), reserve officers and volunteers.

### 340.2 DISCIPLINE POLICY

The continued employment of every employee of this department shall be based on conduct that reasonably conforms to the guidelines set forth herein, together with the City's Merit Rules and Regulations. Failure of any employee to meet the guidelines set forth in this policy, whether on-duty or off-duty, may be cause for disciplinary action.

An employee's off-duty conduct shall be governed by this policy to the extent that it is related to act(s) that may materially affect or arise from the employee's ability to perform official duties or to the extent that it may be indicative of unfitness for his/her position.

### 340.3 CONDUCT WHICH MAY RESULT IN DISCIPLINE

The following list of causes for disciplinary action constitutes a portion of the disciplinary standards of this department. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for specific action or inaction that is detrimental to efficient department service:

#### 340.3.1 ATTENDANCE

- (a) Leaving job to which assigned during duty hours without reasonable excuse and proper permission and approval.
- (b) Unexcused or unauthorized absence or tardiness on scheduled day(s) of work.
- (c) Failure to report to work or to place of assignment at time specified and fully prepared to perform duties without reasonable excuse.
- (d) Failure to notify the Department within 24 hours of any change in residence address, home phone number, or marital status.

#### 340.3.2 CONDUCT

- (a) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily injury on another.



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- (b) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment without first notifying the Chief of Police of such action.
- (c) Using department resources in association with any portion of an independent civil action. These resources include, but are not limited to, personnel, vehicles, equipment and non-subpoenaed records.
- (d) Engaging in horseplay resulting in injury or property damage or the reasonable possibility thereof.
- (e) Unauthorized possession of, loss of or damage to department property or the property of others, or endangering it through unreasonable carelessness or maliciousness.
- (f) Failure of any employee to promptly and fully report activities on their own part or the part of any other employee where such activities may result in criminal prosecution or discipline under this policy.
- (g) Failure of any employee to promptly and fully report activities that have resulted in official contact by any other law enforcement agency.
- (h) Using or disclosing one's status as an employee with the Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non-department business or activity.
- (i) The use of any information, photograph, video or other recording obtained or accessed as a result of employment with the Department for personal or financial gain or without the express authorization of the Chief of Police or a designee may result in discipline under this policy.
- (j) Seeking restraining orders against individuals encountered in the line of duty without the express permission of the Chief of Police.
- (k) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department.
- (l) Unwelcome solicitation of a personal or sexual relationship while on-duty or through the use of one's official capacity.
- (m) Engaging in on-duty sexual relations including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact.
- (n) Or any other action or inaction that is detrimental to efficient department service.

#### 340.3.3 DISCRIMINATION

- (a) Discriminate against any person because of age, race, color, creed, religion, sex, sexual orientation, national origin, ancestry, marital status, physical or mental disability or medical condition.

#### 340.3.4 INTOXICANTS

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- (a) Reporting for work or being at work following the use of intoxicants where such use may impair the employee's ability to perform assigned duties or where there is an immediate suspicion of ineffectiveness during public contact resulting from the use of intoxicants
- (b) Unauthorized possession or use of, or attempting to bring intoxicants to the work site, except as authorized in the performance of an official assignment. An employee who is authorized to consume intoxicants is not permitted to do so to such a degree that it may impair on-duty performance
- (c) Reporting for work or being at work following the use of a "controlled substance" or any drug (whether legally prescribed or otherwise) where such use may impair the employee's ability to perform assigned duties
- (d) Unauthorized possession, use of, or attempting to bring controlled substance or other illegal drug to any work site

#### 340.3.5 PERFORMANCE

- (a) Unauthorized sleeping during on-duty time or assignments.
- (b) Careless workmanship resulting in spoilage or waste of materials or work of an unacceptable nature as applicable to the nature of the work assigned.
- (c) Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or instructions of supervisors without a reasonable and bona fide excuse.
- (d) Concealing, attempting to conceal, removing or destroying defective or incompetent work.
- (e) Disobedience or insubordination to constituted authorities, including refusal or deliberate failure to carry out or follow lawful directives and orders from any supervisor or person in a position of authority.
- (f) The wrongful or unlawful exercise of authority on the part of any employee for malicious purpose, personal gain, willful deceit or any other improper purpose.
- (g) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of the Department or subverts the good order, efficiency and discipline of the Department or which would tend to discredit any member thereof.
- (h) Knowingly making false, misleading or malicious statements that are reasonably calculated to harm or destroy the reputation, authority or official standing of the Department or members thereof.
- (i) The falsification of any work-related records, the making of misleading entries or statements with the intent to deceive, or the willful and unauthorized destruction and/or mutilation of any department record, book, paper or document.
- (j) Wrongfully loaning, selling, giving away or appropriating any department property for the personal use of the employee or any unauthorized person.

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- (k) The unauthorized use of any badge, uniform, identification card or other department equipment or property for personal gain or any other improper purpose.
- (l) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the employee's duties (lawful subpoena fees and authorized work permits excepted).
- (m) Any knowing or negligent violation of the provisions of the department manual, operating procedures or other written directive of an authorized supervisor. The Department shall make this manual available to all employees. Employees shall familiarize themselves with this manual and be responsible for compliance with each of the policies contained herein.
- (n) Work-related dishonesty, including attempted or actual theft of department property, services or the property of others, or the unauthorized removal or possession of department property or the property of another person.
- (o) Criminal, dishonest, infamous or disgraceful conduct adversely affecting the employee/ employer relationship, whether on- or off-duty.
- (p) Failure to disclose or misrepresenting material facts, or the making of any false or misleading statement on any application, examination form, or other official document, report or form or during the course of any work-related investigation.
- (q) Failure to take reasonable action while on-duty and when required by law, statute, resolution or approved department practices or procedures.
- (r) Associating with or joining a criminal gang, organized crime and/or criminal syndicate when a department member knew or reasonably should have known of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by the Department.
- (s) Offer or acceptance of a bribe or gratuity.
- (t) Misappropriation or misuse of public funds.
- (u) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- (v) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions: while on department premises; at any work site; while on-duty or while in uniform; or while using any department equipment or system. Gambling activity undertaken as part of an officer's official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.
- (w) Substantiated, active, continuing association on a personal rather than official basis with a person or persons who engage in or are continuing to engage in serious violations of state or federal laws, where the employee has or reasonably should have knowledge of such criminal activities, except where specifically directed and authorized by the Department.

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- (x) Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty, on department property or while in any way representing him/herself as a member of this agency, except as expressly authorized by the Chief of Police.
- (y) Engaging in political activities during assigned working hours except as expressly authorized by the Chief of Police.
- (z) Violating any misdemeanor or felony statute.
- (aa) Any other on-duty or off-duty conduct which any employee knows or reasonably should know is unbecoming a member of the Department or which is contrary to good order, efficiency or morale, or which tends to reflect unfavorably upon the Department or its members.
- (ab) Any failure or refusal of an employee to properly perform the function and duties of an assigned position.
- (ac) Failure to maintain required and current licenses (e.g. driver's license) and certifications (e.g., first aid).
- (ad) Giving false or misleading statements, or misrepresenting or omitting material information to a supervisor, or other person in a position of authority, in connection with any investigation or in the reporting of any department-related business.

#### 340.3.6 SAFETY

- (a) Failure to observe posted rules, signs and written or oral safety instructions while on duty and/or within department facilities or to use required protective clothing or equipment.
- (b) Knowingly failing to report any on-the-job or work-related accident or injury within 24 hours.
- (c) Substantiated employee record of unsafe or improper driving habits or actions in the course of employment.
- (d) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.
- (e) Any personal action contributing to involvement in a preventable traffic collision, or other unsafe or improper driving habits or actions in the course of employment.
- (f) Violating departmental safety standards or safe working practices.

#### 340.3.7 SECURITY

- (a) Unauthorized, intentional release of designated confidential information, materials, data, forms or reports

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### 340.3.8 SUPERVISION RESPONSIBILITY

- (a) Failure of a supervisor to take appropriate action to ensure that employees adhere to the policies and procedures of this department and the actions of all personnel comply with all laws
- (b) Failure of a supervisor to timely report known misconduct of an employee to his or her immediate supervisor or to document such misconduct appropriately or as required by policy
- (c) The unequal or disparate exercise of authority on the part of a supervisor toward any employee for malicious or other improper purpose

### **340.4 INVESTIGATION OF DISCIPLINARY ALLEGATIONS**

Regardless of the source of an allegation of misconduct, all such matters will be investigated in accordance with Personnel Complaint Procedure Policy Manual § 1020. Pursuant to Government Code §§ 3304(d) and 3508.1, the investigation should be completed within one year of the discovery of the allegation unless such investigation falls within one of the exceptions delineated within those provisions.

### **340.5 POST INVESTIGATION PROCEDURES**

#### 340.5.1 DIVISION CAPTAIN RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Division Captain of the involved employee shall review the entire investigative file, the employee's personnel file and any other relevant materials.

The Division Captain may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

- (a) Prior to forwarding recommendations to the Chief of Police, the Division Captain may return the entire investigation to the assigned detective or supervisor for further investigation or action
- (b) When forwarding any written recommendation to the Chief of Police, the Division Captain shall include all relevant materials supporting the recommendation. Actual copies of an employee's existing personnel file need not be provided and may be incorporated by reference

#### 340.5.2 RESPONSIBILITIES OF THE CHIEF OF POLICE

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials.

The Chief of Police may modify any recommendation and/or may return the file to the Division Captain for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall determine the amount of discipline, if any, to be recommended.

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In the event disciplinary action is recommended, the Chief of Police shall provide the employee with written (*Skelly*) notice of the following information within one year of the date of the discovery of the alleged misconduct (absent an exception set forth in Government Code § 3304(d) or Government Code § 3508.1):

- (a) Specific charges set forth in separate counts, describing the conduct underlying each count.
- (b) A separate recommendation of proposed discipline for each charge.
- (c) A statement that the employee has been provided with or given access to all of the materials considered by the Chief of Police in recommending the proposed discipline.
- (d) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the *Skelly* notice.
  - 1. Upon a showing of good cause by the employee, the Chief of Police may grant a reasonable extension of time for the employee to respond.
  - 2. If the employee elects to respond orally, the presentation shall be recorded by the Department. Upon request, the employee shall be provided with a copy of the recording.

### **340.6 EMPLOYEE RESPONSE**

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) This *Skelly* response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the *Skelly* response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.
- (d) In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results of such subsequent investigation prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.
- (f) Once the employee has completed his/her *Skelly* response or, if the employee has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. Once the Chief of Police determines that discipline will be imposed, a timely written decision shall be provided to the employee within 30 days, imposing, modifying or rejecting the recommended discipline. In the event of a termination,

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the final notice of discipline shall also inform the employee of the reason for termination and the process to receive all remaining fringe and retirement benefits.

- (g) Once the Chief of Police has issued a written decision, the discipline shall become effective.

### **340.7 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE**

In the event that an employee tenders a written retirement or resignation prior to the imposition of discipline, it shall be noted in the file.

The tender of a retirement or resignation by itself shall not serve as grounds for the termination of pending discipline.

### **340.8 POST SKELLY PROCEDURE**

In situations resulting in the imposition of a suspension, punitive transfer, demotion, termination of a non-probationary employee, the employee shall have the right to an evidentiary appeal of the Chief of Police's imposition of discipline pursuant to the operative Memorandum of Understanding (MOU) or collective bargaining agreement and personnel rules.

During any post-Skelly administrative appeal, evidence that an officer has been placed on a *Brady* list or is otherwise subject to *Brady* restrictions may not be introduced unless the underlying allegations of misconduct have been independently established. Thereafter, such *Brady* evidence shall be limited to determining the appropriateness of penalty. (Government Code § 3305.5).

### **340.9 DISCIPLINARY ACTION AGAINST PROBATIONARY EMPLOYEES**

In the event that a probationary employee is terminated solely for unsatisfactory performance or the failure to meet department standards, the employee shall have no right to appeal and the following shall be considered:

- (a) Termination of a probationary employee for such failure to pass probation shall be so reflected in the employee's personnel file
- (b) In the event that a probationary employee is disciplined or terminated for misconduct, the employee shall only be entitled to appeal the decision in the same manner as set forth in the *Skelly* procedure as set forth above. This appeal process may be held prior to or within a reasonable time after the imposition of discipline
- (c) At all times during any investigation of allegations of misconduct involving a probationary officer, such officer shall be afforded all procedural rights set forth in Government Code § 3303 and applicable Department policies
- (d) A probationary employee's appeal of disciplinary action shall be limited to an opportunity for the employee to attempt to establish that the underlying allegations should not be sustained. Nothing in this policy or procedure, however, should be construed to establish any sort of property interest in or right to the employee's continuation of employment

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- (e) The burden of proof for any probationary employee's appeal of disciplinary action shall rest with the employee and will require proof by a preponderance of the evidence
- (f) In the event that a probationary employee meets his or her burden of proof in such a disciplinary appeal, the Department shall remove all reference to the underlying allegations of misconduct from the employee's personnel file
- (g) In the event that a probationary employee fails to meet his or her burden of proof in such a disciplinary appeal, the employee shall have no further right to appeal beyond the Chief of Police

#### 340.9.1 DELEGATION OF AUTHORITY/DISCIPLINARY ACTIONS

The City of Palo Alto Merit System Rules and Regulations, Chapter 10, defines disciplinary action as discharge, reduction in salary, reprimand, disciplinary probation or suspension.

Authorized management employees are delegated authority under §1003 of the City of Palo Alto Merit System Rules and Regulations to take disciplinary action for cause against an employee under his/her command.

Management employees authorized to take disciplinary action are:

- (a) Police Chief;
- (b) Assistant Police Chief;
- (c) Technical Services Coordinator;
- (d) Field Services Division Captain;
- (e) Investigative Services Division Captain;
- (f) Superintendent of Animal Services.

Such disciplinary action shall be limited to the reprimand and disciplinary probation for those causes defined in §1002 of the City of Palo Alto Merit System Rules and Regulations. For purging of an employees disciplinary file refer to City of Palo Alto Merit System Rules and Regulations §1026.



## Department Computer Use

### 342.1 PURPOSE AND SCOPE

This policy describes the use of department computers, software and systems.

#### 342.1.1 PRIVACY POLICY

Any employee utilizing any computer, electronic storage device or media, Internet service, phone service, information conduit, system or other wireless service provided by or funded by the Department expressly acknowledges and agrees that the use of such service, whether for business or personal use, shall remove any expectation of privacy the employee, sender and recipient of any communication utilizing such service might otherwise have, including as to the content of any such communication. The Department also expressly reserves the right to access and audit any and all communications, including content that is sent, received and/or stored through the use of such service.

### 342.2 DEFINITIONS

The following definitions relate to terms used within this policy:

**Computer System** - Shall mean all computers (on-site and portable), hardware, software, and resources owned, leased, rented, or licensed by the Palo Alto Police Department, which are provided for official use by agency employees. This shall include all access to, and use of, Internet Service Providers (ISP) or other service providers provided by or through the agency or agency funding.

**Hardware** - Shall include, but is not limited to, computers, computer terminals, network equipment, modems or any other tangible computer device generally understood to comprise hardware.

**Software** - Shall include, but is not limited to, all computer programs and applications including "shareware." This does not include files created by the individual user.

**Temporary File or Permanent File or File** - Shall mean any electronic document, information or data residing or located, in whole or in part, whether temporarily or permanently, on the system, including but not limited to spreadsheets, calendar entries, appointments, tasks, notes, letters, reports or messages.

### 342.3 SYSTEM INSPECTION OR REVIEW

An employee's supervisor has the express authority to inspect or review the system, any and all temporary or permanent files and related electronic systems or devices, and any contents thereof when such inspection or review is in the ordinary course of his/her supervisory duties, or based on cause.

When requested by an employee's supervisor, or during the course of regular duties requiring such information, a member(s) of the Technical Services Division Staff may extract, download, or otherwise obtain any and all temporary or permanent files residing or located in or on the system.

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Reasons for inspection or review may include, but are not limited to system malfunctions, problems or general system failure, a lawsuit against the agency involving the employee, or related to the employee's duties, an alleged or suspected violation of a department policy, or a need to perform or provide a service when the employee is unavailable.

### **342.4 AGENCY PROPERTY**

All information, data, documents, communications, and other entries initiated on, sent to or from, or accessed on any department computer, or through the department computer system on any other computer, whether downloaded or transferred from the original department computer, shall remain the exclusive property of the Department and shall not be available for personal or non-departmental use without the expressed authorization of an employee's supervisor.

### **342.5 UNAUTHORIZED USE OF SOFTWARE**

Employees shall not copy or duplicate any copyrighted or licensed software except for a single copy for backup purposes in accordance with the software company's copyright and license agreement. To reduce the risk of computer virus or malicious software infection, employees shall not install any unlicensed or unauthorized software on any department computer. Employees shall not install personal copies of any software onto any department computer. Any files or software that an employee finds necessary to upload onto a department computer or network shall be done so only with the approval of the department IT specialist and only after being properly scanned for malicious attachments.

No employee shall knowingly make, acquire or use unauthorized copies of computer software not licensed to the agency while on agency premises or on an agency computer system. Such unauthorized use of software exposes the agency and involved employees to severe civil and criminal penalties.

### **342.6 PROHIBITED AND INAPPROPRIATE USE**

Access to department technology resources including Internet access provided by or through the Department shall be strictly limited to department-related business activities. Data stored on, or available through department systems shall only be accessed by authorized employees who are engaged in an active investigation, assisting in an active investigation, or who otherwise have a legitimate law enforcement or department business related purpose to access such data. Any exceptions to this policy must be approved by a supervisor.

An Internet site containing information that is not appropriate or applicable to departmental use and which shall not be intentionally accessed include, but are not limited to, adult forums, pornography, chat rooms and similar or related Web sites. Certain exceptions may be permitted with the approval of a supervisor as a function of an assignment.

Downloaded information shall be limited to messages, mail and data files, which shall be subject to audit and review by the Department without notice. No copyrighted and/or unlicensed software program files may be downloaded.

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Employees shall report any unauthorized access to the system or suspected intrusion from outside sources (including the Internet) to a supervisor.

Employees shall not access or use other employees department email address as a joke or otherwise, without authorization. Employees who violate this policy will be subject to discipline and/or criminal prosecution where applicable.

### **342.7 PROTECTION OF AGENCY SYSTEMS AND FILES**

All employees have a duty to protect the system and related systems and devices from physical and environmental damage and are responsible for the correct use, operation, care, and maintenance of the system.

It is expressly prohibited for an employee to allow an unauthorized user to access the system at any time or for any reason.

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## Report Preparation

### 344.1 PURPOSE AND SCOPE

Report preparation is a major part of each officer's job. The purpose of reports is to document sufficient information to refresh the officer's memory and to provide sufficient information for follow-up investigation and successful prosecution. Report writing is the subject of substantial formalized training and on-the-job training.

#### 344.1.1 REPORT PREPARATION

Employees should ensure that reports are sufficiently detailed for their purpose and free from errors prior to submission. It is the responsibility of the assigned employee to complete and submit all reports taken during the shift before going off-duty unless permission to hold the report has been approved by a supervisor. Generally, reports requiring prompt follow-up action on active leads, or arrest reports where the suspect remains in custody should not be held.

Handwritten reports must be prepared legibly. If the report is not legible, the submitting employee will be required by the reviewing supervisor to promptly make corrections and resubmit the report. Employees who dictate reports shall use appropriate grammar, as content is not the responsibility of the typist. Employees who generate reports on computers are subject to all requirements of this policy.

All reports shall accurately reflect the identity of the persons involved, all pertinent information seen, heard or assimilated by any other sense, and any actions taken. Employees shall not suppress, conceal or distort the facts of any reported incident, nor shall any employee make a false report orally or in writing. Generally, the reporting employee's opinions should not be included in reports unless specifically identified as such.

### 344.2 REQUIRED REPORTING

Written reports are required in all of the following situations on the appropriate department approved form unless otherwise approved by a supervisor.

#### 344.2.1 CRIMINAL ACTIVITY REPORTING

When an employee responds to a call for service, or as a result of self-initiated activity becomes aware of any activity where a crime has occurred, the employee is required to document the activity. The fact that a victim is not desirous of prosecution is not an exception to documenting a report. The following are examples of required documentation:

- (a) In every instance where a felony has occurred, the documentation shall take the form of a written crime report;
- (b) In every instance where a misdemeanor crime has occurred and the victim desires a report, the documentation shall take the form of a written crime report. If the victim does not desire a report, the incident will be recorded on the Computer Aided Dispatch (CAD) system;
- (c) In every case where any force is used against any person by police personnel;

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- (d) All incidents involving domestic violence;
- (e) All arrests.

#### 344.2.2 NON-CRIMINAL ACTIVITY

The following incidents shall be documented using the appropriate approved report:

- (a) Anytime an officer points a firearm at any person
- (b) Any use of force against any person by a member of this department (see the Use of Force Policy)
- (c) Any firearm discharge (see the Firearms and Qualification Policy)
- (d) Anytime a person is reported missing, regardless of jurisdiction (see the Missing Persons Reporting Policy)
- (e) Any found property or found evidence
- (f) Any traffic collisions above the minimum reporting level (see Traffic Collision Reporting Policy)
- (g) Suspicious incidents that may indicate a potential for crimes against children or that a child's safety is in jeopardy
- (h) All protective custody detentions
- (i) Suspicious incidents that may place the public or others at risk
- (j) Whenever the employee believes the circumstances should be documented or at the direction of a supervisor

#### 344.2.3 DEATH CASES

Death investigations require specific investigation methods depending on circumstances and should be handled in accordance with Policy § 360 Death Investigations. The handling officer should notify and apprise a supervisor of the circumstances surrounding the incident to determine how to proceed. The following cases shall be appropriately investigated and documented using the approved report:

- (a) Sudden or accidental deaths.
- (b) Suicides.
- (c) Homicide or suspected homicide.
- (d) Unattended deaths (No physician or qualified hospice care in the 20 days preceding death).
- (e) Found dead bodies or body parts.

#### 344.2.4 INJURY OR DAMAGE BY CITY PERSONNEL

Reports shall be taken if an injury occurs that is a result of an act of a City employee. Additionally, reports shall be taken involving damage to City property or City equipment.

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### **344.2.5 MISCELLANEOUS INJURIES**

Any injury that is reported to this department shall require a report when:

- (a) The injury is a result of drug overdose
- (b) Attempted suicide
- (c) The injury is major/serious, whereas death could result
- (d) The circumstances surrounding the incident are suspicious in nature and it is desirable to record the event

The above reporting requirements are not intended to be all-inclusive. A supervisor may direct an employee to document any incident he/she deems necessary.

### **344.2.6 MANDATORY REPORTING OF JUVENILE GUNSHOT INJURIES**

A report shall be taken when any incident in which a child 18 years or younger suffered an unintentional or self-inflicted gunshot wound. The Technical Services Division shall notify the California State Department of Health Services of the incident, including the nature of the injury, on a form provided by the state. Forms may be obtained from DHS Epidemiology and Prevention for Injury Control (EPIC) Branch, Tel: (910) 552-9849 (Penal Code § 23685).

### **344.3 GENERAL POLICY OF EXPEDITIOUS REPORTING**

In general, all officers and supervisors shall act with promptness and efficiency in the preparation and processing of all reports. An incomplete report, unorganized reports or reports delayed without supervisory approval are not acceptable. Reports shall be processed according to established priorities or according to special priority necessary under exceptional circumstances.

#### **344.3.1 GENERAL POLICY OF HANDWRITTEN REPORTS**

Some incidents and report forms lend themselves to block print rather than typing. In general, the narrative portion of those reports where an arrest is made or when there is a long narrative should be typed or dictated.

Supervisors may require, with the foregoing general policy in mind, block printing or typing of reports of any nature for Departmental consistency.

#### **344.3.2 GENERAL USE OF OTHER HANDWRITTEN FORMS**

County, state and federal agency forms may be block printed as appropriate. In general, the form itself may make the requirement for typing apparent.

### **344.4 REPORT CORRECTIONS**

Supervisors shall review all reports for content and accuracy, and approve them if acceptable. If a correction is necessary, the reviewing supervisor should complete the Report Correction form stating the reasons for rejection. The original report and the correction form should be returned to the reporting employee for correction as soon as practical. It shall be the responsibility of the originating to ensure that any report returned for correction is processed in a timely manner.

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### **344.5 REPORT CHANGES OR ALTERATIONS**

Reports that have been approved by a supervisor and submitted to the Technical Services Division for filing and distribution shall not be modified or altered except by way of a supplemental report. Reviewed reports that have not yet been submitted to the Technical Services Division may be corrected or modified by the authoring officer only with the knowledge and authorization of the reviewing supervisor.

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## News Media Relations

### 346.1 PURPOSE AND SCOPE

This policy provides guidelines for media releases and media access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities.

### 346.2 RESPONSIBILITIES

The ultimate authority and responsibility for the release of information to the media shall remain with the Chief of Police, however, in situations not warranting immediate notice to the Chief of Police and in situations where the Chief of Police has given prior approval, Division Captains, Watch Commanders and designated Press Information Officer(s) may prepare and release information to the media in accordance with this policy and the applicable law.

#### 346.2.1 MEDIA REQUEST

Any media request for information or access to a law enforcement situation shall be referred to the designated department media representative, or if unavailable, to the first available supervisor. Prior to releasing any information to the media, employees shall consider the following:

- (a) At no time shall any employee of this department make any comment or release any official information to the media without prior approval from a supervisor or the designated department media representative;
- (b) In situations involving multiple law enforcement agencies, every reasonable effort should be made to coordinate media releases with the authorized representative of each involved agency prior to the release of any information by this department;
- (c) Under no circumstance should any member of this department make any comment(s) to the media regarding any law enforcement incident not involving this department without prior approval of the Chief of Police.

### 346.3 MEDIA ACCESS

Authorized members of the media shall be provided access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities subject to the following conditions (Penal Code § 409.5(d)):

- (a) The media representative shall produce valid press credentials that shall be prominently displayed at all times while in areas otherwise closed to the public.
- (b) Media representatives may be prevented from interfering with emergency operations and criminal investigations.
  1. Reasonable effort should be made to provide a safe staging area for the media that is near the incident and that will not interfere with emergency or criminal investigation operations. All information released to the media should be coordinated through the department Press Information Officer or other designated spokesperson.



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2. Whenever the presence of media or other aircraft pose a threat to public or officer safety or significantly hampers incident operations, the field supervisor should consider requesting a Temporary Flight Restriction (TFR). All requests for a TFR should be routed through the Watch Commander. The TFR request should include specific information regarding the perimeter and altitude necessary for the incident and should be requested through the appropriate control tower. If the control tower is not known, the Federal Aviation Administration should be contacted (14 CFR 91.137).
- (c) No member of this department who is under investigation shall be subjected to media visits or interviews without the consent of the involved employee (Government Code § 3303(e)).
  - (d) Media interviews with individuals who are in custody should not be permitted without the approval of the Chief of Police and the express consent of the person in custody.

A tactical operation should be handled in the same manner as a crime scene, except the news media shall be permitted within the outer perimeter of the scene, subject to any restrictions as determined by the supervisor in charge. Department members shall not jeopardize a tactical operation in order to accommodate the news media. All comments to the media shall be coordinated through a supervisor or the Press Information Officer.

#### **346.3.1 PROVIDING ADVANCE INFORMATION**

To protect the safety and rights of officers and other persons, advance information about planned actions by law enforcement personnel, such as movement of persons in custody or the execution of an arrest or search warrant, should not be disclosed to the news media, nor should media representatives be invited to be present at such actions except with the prior approval of the Chief of Police.

Any exceptions to the above should only be considered for the furtherance of legitimate law enforcement purposes. Prior to approving any exception the Chief of Police will consider, at minimum, whether the release of information or presence of the media would unreasonably endanger any individual, prejudice the rights of any person or is otherwise prohibited by law.

#### **346.4 SCOPE OF INFORMATION SUBJECT TO RELEASE**

The Department will maintain a daily information log of significant law enforcement activities that shall be made available, upon request, to media representatives through the Watch Commander. This log will generally contain the following information:

- (a) The date, time, location, case number, type of crime, extent of injury or loss, and names of individuals (except confidential informants) involved in crimes occurring within this jurisdiction unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation
- (b) The date, time, location, case number, name, birth date and charges for each person (including police officers) arrested by this department unless the release of such information

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would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation

- (c) The time and location of other significant law enforcement activities or requests for service with a brief summary of the incident subject to the restrictions of this policy and applicable law

At no time shall identifying information pertaining to a juvenile arrestee, victim or witness be publicly released without prior approval of a competent court.

Information concerning incidents involving certain sex crimes and other offenses set forth in Government Code § 6254(f) shall be restricted in accordance with applicable statutory provisions.

Identifying information concerning deceased individuals shall not be released to the media until notification of next of kin or otherwise cleared through the Coroner's Office.

Any requests for copies of related reports or additional information not contained in this log shall be referred to the designated department media representative, the custodian of records, or if unavailable, to the Watch Commander. Such requests will generally be processed in accordance with the provisions of the Public Records Act (Government Code § 6250, et seq.)

#### 346.4.1 RESTRICTED INFORMATION

It shall be the responsibility of the authorized employee dealing with media requests to ensure that restricted information is not inappropriately released to the media by the Department. When in doubt, authorized and available legal counsel should be obtained. Examples of such restricted information include, but are not limited to:

- (a) Any information that is otherwise privileged or restricted under state or federal law. Government Code §6254(k);
- (b) Confidential peace officer personnel information; (See Policy Manual §1026) 1. The identities of officers involved in shootings or other major incidents may only be released to the media pursuant to consent of the involved officer or upon a formal request filed and processed in accordance with the Public Records Act after 48 hours of the incident.
- (c) Information pertaining to pending litigation involving the Department;
- (d) Copies of traffic collision reports (except to the involved parties and their authorized representatives) (Vehicle Code §20012);
- (e) Any confession, admission, or statement of the defendant or suspect with respect to the crime, or any refusal to make a statement;
  - 1. The prior criminal record of the defendant or suspect, or his or her reputation or character in the community, is restricted information, however, prior convictions alleged in the current criminal complaint may be revealed (as in a "three-strike" case).
- (f) Information that would tend to endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation;

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- (g) Any statement expressing a belief in the guilt or innocence of the defendant or suspect, or a belief that the defendant or suspect will plead guilty;
- (h) The identity of a sexual assault or domestic violence victim. Information concerning incidents involving certain sex crimes and other offenses set forth in Government Code §6254(f) shall be restricted in accordance with applicable statutory provisions;
- (i) The results of any examinations or test, the defendant's or suspect's refusal to submit to any examination or test such as a DNA, polygraph, blood or urine test, or a lineup;
- (j) The availability of the defendant or suspect for photographs or interviews with the media without a court order;
- (k) The subject of a judge's gag order, facts likely to materially prejudice an adjudicative proceeding such as suppressed evidence, identity of a confidential or citizen informant, or the pendency of a search pursuant to warrant;
- (l) A non-public and confidential Grand Jury proceeding;
- (m) Identifying information concerning deceased individuals shall not be released to the media until notification of next of kin or until otherwise cleared by the Medical Examiner-Coroner;
- (n) Juvenile matters are considered confidential pursuant to Welfare & Institutions Code §827 and §828, with the following exceptions:
  - 1. Warrant Outstanding: A law enforcement agency may release the name, description, and the alleged offense of any minor alleged to have committed a violent offense, as defined in Penal Code §667.5(c), if a warrant for the minor's arrest is outstanding and the release of this information would assist in the apprehension of the minor or protection of public safety (Welfare & Institutions Code §827.6(a));
  - 2. After Arrest: A law enforcement agency, following the minor's arrest, may disclose the name of any minor 14 years of age or older who was taken into custody for the commission of any serious felony, as defined Penal Code §1192.7(c). The agency can also release the offenses allegedly committed by that minor (Welfare & Institutions Code §827.5(a));
  - 3. Open Court: Information regarding serious felonies described in Welfare and Institutions Code §676 may be disclosed if that information was elicited in open court and could be heard or observed by the news media;
  - 4. After Petition Sustained: The name of the minor, 14 years of age or older, charged with the commission of Penal Code §667.5 or §1192.7(c) crimes, may be disclosed after the petition is sustained (Welfare & Institutions Code §204.5);

The name of a minor, the charging petition, the minutes of the proceedings, and the orders of adjudication and disposition of the court for any offense listed in Welfare & Institutions Code §676(1) subdivision (1) may be disclosed after the petition is sustained (Welfare & Institutions Code §676(c) and §676(d));

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A law enforcement agency may disclose the felony offense committed and the disposition of the case of any minor, 14 years of age or older, who was found by the court to have committed a felony listed in Welfare & Institutions Code §707(b) (Welfare & Institutions Code §827.2(c)).

EMERGENCY RELEASE OF INFORMATION TO NEWS MEDIA TO WARN POTENTIAL VICTIMS, TO ASSIST IN APPREHENSION OF A DEFENDANT OR SUSPECT, OR TO APPEAL FOR ASSISTANCE:

In rare cases, it may be reasonable to release information to the news media such as the dangerousness of the suspect, the statement of a defendant or suspect as to his or her intentions regarding future crimes, or his or her modus operandi during the commission of prior criminal offenses. Reasonable purposes for releasing such information include warning potential victims, securing public assistance in apprehending a suspect, or obtaining evidence. In the event the law enforcement agency believes it necessary to release such information for these limited purposes (which normally would not be released to the media), the Santa Clara County District Attorney's Office should be contacted to ascertain the potential effect upon the prosecution of the case.

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## Court Appearance And Subpoenas

### 348.1 PURPOSE AND SCOPE

This procedure has been established to provide for the acceptance of subpoenas and to ensure that employees appear when subpoenaed, or are available to appear in court when requested and present a professional appearance.

#### 348.1.1 DEFINITIONS

**On-Call** - When an employee has appeared in court, or is at the time on-duty, and has been told by a member of the court that he/she is free to leave the court or return to duty, subject to being available by phone or pager if called back.

**Standby** - When an employee receives a subpoena of a type which allows him or her to not appear in court, but remain available by phone or pager so that he or she may be directed to appear in court within a reasonable amount of time.

**Trailing Status** - When an employee remains on standby status for additional court sessions until notified otherwise.

**Mandatory Appearance** - Subpoenas marked as mandatory appearance require an employee's physical appearance in the specified court. Failure to timely appear in the specified court, either intentionally or by negligence, may result in disciplinary action.

### 348.2 COURT SUBPOENAS

Employees who receive subpoenas related to their employment with this department are subject to the provisions of this policy. Employees should be aware that their compliance is mandatory on all cases for which they have been properly subpoenaed, or properly notified. This policy applies to civil and criminal subpoenas. Employees are expected to cooperate with the prosecution to ensure the successful conclusion of a case.

#### 348.2.1 SERVICE OF SUBPOENA

Service of a subpoena requiring the appearance of any department employee in connection with a matter arising out of the employee's course and scope of official duties may be accomplished by personal service on the employee or by delivery of two copies of the subpoena on the employee's supervisor or other authorized departmental agent (Government Code § 68097.1; Penal Code § 1328(c)). Subpoena service is also acceptable by courier or court liaison from the court to this department.

#### 348.2.2 VALID SUBPOENAS

No subpoena shall be accepted for an employee of this department unless it has been properly served and verified to have originated from a recognized legal authority.

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#### 348.2.3 ACCEPTANCE OF SUBPOENA

- (a) Only the employee named in a subpoena, his/her immediate supervisor or the department Court Liaison Officer shall be authorized to accept service of a subpoena. (Penal Code § 1328(c)). Any authorized employee accepting a subpoena shall immediately provide a copy of the subpoena to the department Court Liaison Officer. The Court Liaison Officer shall maintain a chronological log of all department subpoenas and provide a copy of the subpoena to each involved employee. Additionally, the Court Liaison Officer will insure that the court appearance date is placed on the "Court Boards" located in the Field Services Division briefing room and the hallway of the Investigative Services Division.
- (b) Any supervisor or other authorized individual accepting a subpoena on behalf of another employee shall immediately check available schedules to determine the availability of the named employee for the date listed on the subpoena.
- (c) Once a subpoena has been received by a supervisor or other authorized individual, a copy of the subpoena shall be promptly provided to the Court Liaison Officer as well as a copy to the individually named employee.

#### 348.2.4 REFUSAL OF SUBPOENA

Except where previous arrangements with the issuing court exist, training, vacations and regularly scheduled days off are not valid reasons for refusing a subpoena or missing court. If, due to illness or injury, the named employee is unable to appear in court as directed by a previously served subpoena, he/she shall, at least one hour before the appointed date and time, inform the subpoena clerk or the Watch Commander of his/her absence. It shall then be the responsibility of the subpoena clerk to notify the issuing authority of the employee's unavailability to appear.

If the immediate supervisor or other authorized individual knows that he/she will be unable to deliver a copy of the subpoena to the named employee within sufficient time for the named employee to comply with the subpoena, the supervisor or other authorized individual may refuse to accept service (Penal Code § 1328(d)).

If a subpoena is presented for service to an immediate supervisor or other authorized individual less than five working days prior to the date listed for an appearance and the supervisor or other authorized individual is not reasonably certain that the service can be completed, he/she may refuse to accept service (Penal Code § 1328(e)).

If, after initially accepting service of a subpoena, a supervisor or other authorized individual determines that he/she will be unable to deliver a copy of the subpoena to the individually named employee within sufficient time for the named employee to comply with the subpoena, the supervisor or the subpoena clerk shall notify the server or the attorney named on the subpoena of such not less than 48 hours prior to the date listed for the appearance (Penal Code § 1328(f)).

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#### 348.2.5 COURT STANDBY

To facilitate court standby agreements with the courts, employees are required to provide and maintain current information on their address and phone number with the Department. Employees are required to notify the Department within 24 hours of any change in residence address or home phone number, and to provide accurate and reasonably reliable means or methods for contact.

If an employee on standby changes his/her location during the day, the employee shall notify the subpoena clerk of how he/she can be reached by telephone. Employees are required to remain on standby each day the case is trailing. In a criminal case the Deputy District Attorney handling the case is the only person authorized to excuse an employee from standby status.

#### 348.2.6 OFF-DUTY RELATED SUBPOENAS

Employees receiving valid subpoenas for actions taken off-duty not related to their employment with Palo Alto Police Department shall comply with the requirements of the subpoena. Employees receiving these subpoenas are not compensated for their appearance and arrangements for time off shall be coordinated through their immediate supervisor.

#### 348.2.7 FAILURE TO APPEAR

Any employee who fails to comply with the terms of any valid and properly served subpoena may be subject to discipline as well as court imposed civil and/or criminal sanctions.

#### 348.2.8 OFFICER'S RESPONSIBILITIES (CRIMINAL SUBPOENA)

Once an officer receives a criminal subpoena, he or she is required to do the following:

- (a) Complete and return the top portion of the subpoena to the Court Liaison Officer immediately;
- (b) Contact the Deputy District Attorney that is assigned to the case;
- (c) If the officer is the primary investigating officer for the case, ensure that any and all civilian witnesses are served with subpoenas in a timely manner;
- (d) Notify the Court Liaison Officer of any witnesses that are unavailable or cannot be served;
- (e) Complete and return all civilian subpoena "Proof of Service" forms to the Court Liaison Officer prior to the court date;

If the officer becomes ill or has an emergency and is unable to attend the court appearance, the officer shall contact the Deputy District Attorney as soon as possible.

#### 348.2.9 CRIMINAL SUBPOENAS FROM ANOTHER COUNTY

If an officer assisted a law enforcement agency in San Mateo County, he or she may receive a subpoena from the San Mateo County District Attorney's Office. The officer should complete the proof of service on the subpoena and immediately return it to the Court Liaison Officer.

# Palo Alto Police Department

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### *Court Appearance And Subpoenas*

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#### **348.3 CIVIL SUBPOENAS**

The Department will compensate employees who appear in their official capacity on civil matters arising out of the employee's official duties as directed by the current Memorandum of Understanding. In such situations, the Department will also reimburse any officer for reasonable and necessary travel expenses.

The Department will receive reimbursement for the officer's compensation through the civil attorney of record who subpoenaed the officer.

##### **348.3.1 PROCEDURE**

To ensure that the officer is able to appear when required, that the officer is compensated for such appearance, and to protect the Department's right to reimbursement, officers shall follow the established procedures for the receipt of a civil subpoena.

##### **348.3.2 CIVIL SUBPOENA ACCEPTANCE**

Subpoenas shall not be accepted in a civil action in which the officer or Department is not a party without properly posted fees pursuant to Government Code § 68097.6.

##### **348.3.3 PARTY MUST DEPOSIT FUNDS**

The party in the civil action that seeks to subpoena an officer must deposit the statutory fee of \$275 (Government Code § 68097.2) for each appearance before such subpoena will be accepted. Parties seeking to have the officer make multiple appearances must make an additional deposit in advance.

#### **348.4 OVERTIME APPEARANCES**

If the officer appeared on his/her off-duty time, he/she will be compensated in accordance with the current employee Memorandum of Understanding.

The overtime on such appearance will be paid from the time the officer left his/her residence until he/she returned.

#### **348.5 COURTROOM PROTOCOL**

Employees must be punctual when appearing in court and shall be prepared to proceed immediately with the case for which they are subpoenaed.

##### **348.5.1 PREPARATION FOR TESTIMONY**

Before the date of testifying, the subpoenaed officer shall request a copy of relevant reports and become familiar with their content in order to be prepared for court.

##### **348.5.2 COURTROOM ATTIRE**

Employees shall dress in uniform or business attire. Suitable business attire for men would consist of a coat, tie, and dress pants. Suitable business attire for female employees would consist of a dress jacket, dress blouse, and skirt or slacks.



## *Court Appearance And Subpoenas*

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### **348.6 COURTHOUSE DECORUM**

Employees shall observe all rules of the court in which they are appearing, refrain from smoking or chewing gum in the courtroom, and shall remain alert to changes in the assigned courtroom where their matter is to be heard.

### **348.7 TESTIFYING AGAINST THE INTEREST OF THE PEOPLE OF THE STATE**

Any member or employee who is subpoenaed to testify, who has agreed to testify, or who anticipates testifying or providing information on behalf of or at the request of any party other than the People of the State of California, any county, any city, or any of their officers and employees in which any of those entities are parties, will notify their immediate supervisor without delay. The supervisor will then notify the Chief of Police, District Attorney's Office in criminal cases, County Counsel or City Attorney, as may be indicated by the case.

This includes, but is not limited to the following situations:

- (a) Providing testimony or information for the defense in any criminal trial or proceeding;
- (b) Providing testimony or information for the plaintiff in a civil proceeding against any county, any city, or their officers and employees; or
- (c) Providing testimony or information on behalf of or at the request of any party other than any County, city, or any county or city official in any administrative proceeding, including but not limited to personnel and/or disciplinary matter.

### **348.8 TRAFFIC SUBPOENAS**

All subpoenas for traffic court are sent directly by the court to the Court Liaison Officer. The Court Liaison Officer distributes the traffic subpoenas to the individually named officer through his or her chain of command. Additionally, the Court Liaison Officer will place the scheduled traffic court appearance on the "Court Boards" located in the Field Services Division briefing room and the hallway of the Investigative Services Division.

#### **348.8.1 OFFICER'S RESPONSIBILITIES (TRAFFIC SUBPOENA)**

Any officer who receives a traffic court subpoena is required to be present on the scheduled date and time.

Valid reasons for an officer to request a continuance are illness, previously approved training, or a planned vacation. Regular days off are not valid reasons for requesting a continuance. Additionally, if a court appearance happens to be scheduled during a time that the employee would typically be asleep, that is not a valid reason for missing court.

If an officer has a valid reason for requesting a continuance as noted above, then he or she should:

- (a) Obtain their immediate supervisor's approval and signature on the Traffic Court Notification Form, approving the request for a continuance;
- (b) Notify the Court Liaison Officer as soon as possible by completing and returning the Traffic Court Notification Form. The specific reason for the requested continuance shall be listed;

## *Court Appearance And Subpoenas*

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- (c) If the officer suffers from an illness or an emergency on the scheduled traffic court appearance date, the officer must call the traffic court directly. The phone number for the traffic court is listed on the Traffic Court Notification Form.

### 348.8.2 TRIAL BY DECLARATION

A Trial by Declaration is essentially a traffic trial done via writing. The Court Liaison officer receives the paperwork from the Palo Alto traffic court. Upon receiving the notice, the Court Liaison officer attaches a label to the paperwork with a due date on it and distributes it to the officer. The officer must complete his or her testimony in writing. The officer must complete and return the paperwork to the Court Liaison officer by the listed date.

### 348.8.3 TRAFFIC SUBPOENAS FROM ANOTHER COUNTY

If an officer receives a traffic subpoena from another county, the officer should follow the directions listed on the subpoena for the appearance requirements.

## **348.9 DMV - ADMIN PER SE HEARING (DS 367)**

The Department of Motor Vehicles mails subpoenas to the Court Liaison officer. It is the policy of the Department that officers respond to these subpoenas the same as any other.

### 348.9.1 APPEARANCE IN PERSON

If the officer is required to appear in person, the subpoena will indicate this with the appropriate box checked. The DMV address will be listed on the subpoena as to where to appear. The officer does not need to do anything unless there is a problem with appearing on the specified date. If the officer cannot appear, he or she must contact the hearing officer immediately upon receipt of the subpoena to let them know why they cannot be there. The hearing officer's name and phone number are always listed on the subpoena. The only valid reasons for not appearing are sickness, training, or pre-approved vacation.

### 348.9.2 APPEARANCE BY TELEPHONE

The box labeled "respond by telephoning the above number at the date and time listed above" may be checked on the subpoena. If this is the case, the officer needs to call the listed phone number at the specified date and time to have the hearing conducted over the telephone. If the officer cannot call at the specified date and time, they must call the hearing officer immediately upon receipt of the subpoena. The hearing officer's name and phone number are always listed on the subpoena.

The box labeled "be available for a call by telephone at this number" may be checked on the subpoena. If so, the hearing officer expects the officer to be available to receive a telephone call at the listed phone number at the date and time specified on the subpoena (in this type of subpoena, the number usually listed is the main Communications number of 650-329-2413). If the officer will not be available to receive a call at the specified number, he or she must contact the hearing officer immediately upon receipt of the subpoena.

## *Court Appearance And Subpoenas*

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The only valid reasons for not appearing by telephone are sickness, training, or pre-approved vacation.

### **348.9.3 PRODUCE RECORDS**

There will be an affidavit attached to the subpoena listing the records that the officer needs to produce at the hearing (usually PAS calibrations, etc). The same procedure for the "appearance in person," as described above, should be followed.

### **348.10 PAROLE REVOCATION HEARINGS**

The Board of Prison Terms mails subpoenas to the Department for parole revocation hearings. The officer is required to appear at the listed date, time, and place on the subpoena. Such hearings are usually held at the Santa Clara County Main Jail, the Alameda County Santa Rita Jail, or at San Quentin State Prison. If the officer is unable to appear at the hearing they must contact the Parole Revocation Unit at the listed prison facility immediately upon receipt of the subpoena.

The only valid reasons for not appearing are sickness, training, and pre-approved vacation.

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## Reserve Officers

### 350.1 PURPOSE AND SCOPE

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

### 350.2 SELECTION & APPOINTMENT OF POLICE RESERVE OFFICERS\_DEPUTIES

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

#### 350.2.1 PROCEDURE

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

Before appointment to the Police Reserve Unit, an applicant must have completed, or be in the process of completing, a POST approved basic academy or extended basic academy.

#### 350.2.2 APPOINTMENT

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

#### 350.2.3 COMPENSATION FOR POLICE RESERVE OFFICERS

Compensation for reserve officers is provided as follows:

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

All reserve officers are compensated at an hourly rate as set forth in the current City's Compensation Schedule.

### 350.3 DUTIES OF RESERVE OFFICERS

Reserve officers assist regular officers in the enforcement of laws and in maintaining peace and order within the community. Assignments of reserve officers will usually be to augment the Field Services Division. Reserve officers may be assigned to other areas within the Department as needed. Reserves are required to work designated City sponsored special events and Stanford football games. Absences must be satisfactorily explained to the Reserve Coordinator and approved prior to absence. Reserve officers are required to work a minimum of 10 hours per month.

# Palo Alto Police Department

## Policy Manual

### *Reserve Officers*

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#### 350.3.1 POLICY COMPLIANCE

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

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

#### 350.3.2 RESERVE OFFICER ASSIGNMENTS

All reserve officers will be assigned to duties by the Reserve Coordinator or his/her designee.

#### 350.3.3 RESERVE COORDINATOR

The Chief of Police shall delegate the responsibility for administering the Reserve Officer Program to a Reserve Coordinator.

The Reserve Coordinator shall have the responsibility of, but not be limited to:

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

#### **350.4 FIELD TRAINING**

Penal Code § 832.6(a)(2) requires Level I reserve officers, who have not been released from the immediate supervision requirement per Policy Manual § 350.4.7, to work under the immediate supervision of a peace officer who possesses a Basic POST Certificate.

#### 350.4.1 TRAINING OFFICERS

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

#### 350.4.2 PRIMARY TRAINING OFFICER

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

#### 350.4.3 FIELD TRAINING MANUAL

Each new reserve officer will be issued a Field Training Manual at the beginning of his/her Primary Training Phase. This manual is an outline of the subject matter and/or skills necessary to properly

## *Reserve Officers*

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function as an officer with the Palo Alto Police Department. The reserve officer shall become knowledgeable of the subject matter as outlined. He/she shall also become proficient with those skills as set forth in the manual.

### 350.4.4 COMPLETION OF THE PRIMARY TRAINING PHASE

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

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

### 350.4.5 SECONDARY TRAINING PHASE

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

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

### 350.4.6 THIRD TRAINING PHASE

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

At the completion of Phase III training, the primary training officer will meet with the Reserve Coordinator. Based upon the reserve officer's evaluations, plus input from the primary training officer, the Reserve Coordinator shall decide if the reserve officer has satisfactorily completed his/her formal training. If the reserve officer has progressed satisfactorily, he/she will then graduate from the formal training process. If his/her progress is not satisfactory, the Reserve Coordinator will decide upon the appropriate action to be taken.

### 350.4.7 COMPLETION OF THE FORMAL TRAINING PROCESS

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

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### **350.5 SUPERVISION OF RESERVE OFFICERS**

Reserve officers who have attained the status of Level II shall be under the immediate supervision of a regular sworn officer (Penal Code 832.6(a)(2)). The immediate supervision requirement shall also continue for reserve officers who have attained Level I status unless special authorization is received from the Reserve Coordinator with the approval of the Division Captain.

#### **350.5.1 SPECIAL AUTHORIZATION REQUIREMENTS**

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

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

#### **350.5.2 RESERVE OFFICER MEETINGS**

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

#### **350.5.3 IDENTIFICATION OF RESERVE OFFICERS**

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

#### **350.5.4 UNIFORM**

Reserve officers shall conform to all uniform regulation and appearance standards of this department.

#### **350.5.5 INVESTIGATIONS AND COMPLAINTS**

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

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

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

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### *Reserve Officers*

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#### 350.5.6 RESERVE OFFICER EVALUATIONS

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

#### **350.6 FIREARMS REQUIREMENTS**

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

##### 350.6.1 CARRYING WEAPON ON DUTY

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

##### 350.6.2 CONCEALED FIREARMS PROHIBITED

No reserve officer will be permitted to carry a concealed firearm while in an off-duty capacity, other than to and from work, except those reserve officers who possess a valid CCW permit. An instance may arise where a reserve officer is assigned to a plainclothes detail for his/her assigned tour of duty. Under these circumstances, the reserve officer may be permitted to carry a weapon more suited to the assignment with the knowledge and approval of the supervisor in charge of the detail.

Any reserve officer who is permitted to carry a firearm other than the assigned duty weapon may do so only after verifying that the weapon conforms to departmental standards. The weapon must be registered by the reserve officer and be inspected and certified as fit for service by a departmental armorer.

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

When a reserve officer has satisfactorily completed all three phases of training (as outlined in Policy Manual § 350.4), he/she may be issued a permit to carry a concealed weapon. The decision to issue a concealed weapon permit will be made by the Chief of Police with input from the Reserve Program Coordinator and administrative staff. In issuing a concealed weapon permit a reserve officer's qualification will be individually judged. A reserve officer's dedication to the program and demonstrated maturity, among other factors, will be considered before a concealed weapon permit will be issued. Once issued, the concealed weapon permit will be valid only for as long as the reserve officer remains in good standing with the Palo Alto Police Department Reserve Officer Program.

##### 350.6.3 RESERVE OFFICER FIREARM TRAINING

All reserve officers are required to maintain proficiency with firearms used in the course of their assignments. Reserve officers shall comply with all areas of the firearms training section of the Policy Manual, with the following exceptions:



# Palo Alto Police Department

## Policy Manual

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- (a) All reserve officers are required to qualify quarterly
- (b) Should a reserve officer fail to qualify, that reserve officer will not be allowed to carry a firearm until he/she has reestablished his/her proficiency

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## Outside Agency Assistance / Mutual Aid

### 352.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to officers in the request of or answering the request for assistance involving another law enforcement agency.

It is the policy of this department to provide assistance whenever possible, consistent with the applicable laws of arrest and detention policies of this department, when another law enforcement agency requests assistance with an arrest or detention of any person. This department may also request an outside agency to provide assistance.

Santa Clara County Protocols Section 21 - Multi-Jurisdictional Investigative Team Protocol shall be utilized as a guideline when requesting local assistance from an outside agency.

#### 352.1.1 ASSISTING OUTSIDE AGENCIES

Generally, calls for assistance from other agencies are routed to the Watch Commander's office for approval. When an authorized employee of an outside agency requests the assistance of this department in taking a person into custody, available officers shall respond and assist in making a lawful arrest. If an officer receives a request in the field for assistance, that officer shall notify a supervisor. Arrestees may be temporarily detained by our agency until arrangements for transportation are made by the outside agency.

#### 352.1.2 REQUESTING ASSISTANCE FROM OUTSIDE AGENCIES

If assistance is needed from another agency, the employee requesting assistance shall first notify a supervisor of his/her intentions. The handling officer or supervisor should direct assisting personnel to where they are needed and to whom they should report when they arrive.

The requesting officer should secure radio frequencies for use by all involved agencies so that communication can be coordinated as needed. If necessary, reasonable effort should be taken to provide radio equipment capable of communicating on the assigned frequency to any personnel who do not have compatible radios.

#### 352.1.3 MUTUAL AID PROTOCOL

Officers shall follow the guidelines set forth in the Santa Clara County Protocols Section 16 - Mutual Aid Protocol when requesting formal Law Enforcement Mutual Aid at the Operational Area level. Personnel shall read and follow the guidelines set forth in the Santa Clara County Protocols Section 16 - Mutual Aid Protocol.

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## Registered Offender / Megan's Law Information

### 356.1 PURPOSE AND SCOPE

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

The Registered Offender / Megan's Law Information Policy is drafted in accordance with the Santa Clara County Protocols Section 12 - Megan's Law Protocol. Personnel shall read and follow the guidelines set forth in the Santa Clara County Protocols Section 12 - Megan's Law Protocol when disseminating information regarding certain registered sex offenders under California's Megan's Law.

### 356.2 POLICY

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

The Megan's Law Internet Web Site was implemented by the California Department of Justice on December 15, 2004. The California Department of Justice has categorized each registered sex offender on this site as either "Full Address", "Zip Code Only", "No Post", or "Excluded". The inclusion on the Web Site is allowed only for "Full Address" and "Zip Code Only" sex offenders. The site is accessible directly at <http://meganslaw.ca.gov> or through the Attorney General's Home Page at <http://ag.ca.gov>.

### 356.3 REGISTRATION

The Investigative Services Supervisor shall establish a process to reasonably accommodate registration of certain offenders. The process should rebut any allegation on the part of the offender that the registration process was too confusing, burdensome or difficult for compliance. If it is reasonable to do so, an investigator assigned to related investigations should conduct the registration in order to best evaluate any threat the person may pose to the community. Employees assigned to register offenders should receive appropriate training regarding the registration process.

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

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

#### 356.3.1 CONTENTS OF REGISTRATION

The information collected from the registering offenders shall include a signed statement as required by the California DOJ, fingerprints and a photograph and any other information required

## *Registered Offender / Megan's Law Information*

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by applicable law (Health and Safety Code § 11594; Penal Code § 457.1; Penal Code § 290 et seq.).

### **356.4 MONITORING OF REGISTERED OFFENDERS**

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

- (a) Efforts to confirm residence using an unobtrusive method, such as an Internet search or drive-by of the declared residence.
- (b) Review of information on the California DOJ website for sex offenders.
- (c) Contact with a registrant's parole or probation officer.

Any discrepancies should be reported to the California DOJ.

The Investigative Services Division shall submit updated sex offender registration information to the Department of Justice within three working days of receipt (PC § 290.011-290.016).

The Investigative Services Supervisor should also establish a procedure to routinely disseminate information regarding registered offenders to Palo Alto Police Department personnel, including timely updates regarding new or relocated registrants.

### **356.5 DISSEMINATION OF PUBLIC INFORMATION**

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

Members of the public requesting information on sex registrants should be provided the Megan's Law website or the Palo Alto Police Department's website.

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

#### **356.5.1 LIMITED RELEASE WITHIN COLLEGE CAMPUS COMMUNITY**

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

- (a) The offender's full name

## *Registered Offender / Megan's Law Information*

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

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

### 356.5.2 RELEASE NOTIFICATIONS

Registrant information that is released should include notification that:

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

## Major Incident Notification

### 358.1 PURPOSE AND SCOPE

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

### 358.2 POLICY

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

### 358.3 MINIMUM CRITERIA FOR NOTIFICATION

Most situations where the media show a strong interest are also of interest to the Chief of Police and other key staff. The following list of incident types is provided as a guide for notification and is not intended to be all inclusive:

- Homicides;
- Traffic accidents with fatalities;
- Officer-involved shooting - on or off duty (see Officer-Involved Incidents Policy for special notifications);
- Significant use of force;
- Significant injury or death to employee - on or off duty;
- Death of a prominent Palo Alto official;
- Arrest of a department employee or prominent Palo Alto official;
- Aircraft crash with major damage and/or injury or death;
- A Taser application;
- In-custody deaths.

### 358.4 WATCH COMMANDER RESPONSIBILITY

The Watch Commander is responsible for making sure Communications has made the appropriate initial notifications per the Critical Incident Notification Protocol (confidential document) or conducting notifications directly. The Watch Commander shall make reasonable attempts to obtain as much information on the incident as possible and coordinate with Communications on more in-depth debriefing of key staff.

#### 358.4.1 STAFF NOTIFICATION

Department and other key staff are specified in the Critical Incident Notification Protocol.

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### 358.4.2 DETECTIVE NOTIFICATION

If the incident requires that a detective respond from home, the immediate supervisor of the appropriate detail shall be contacted who will then contact the appropriate detective.

### 358.4.3 S.T.A.R NOTIFICATION

In the event of a traffic fatality or major injury, the supervisor of the Specialized Traffic Accident Reconstruction team shall be notified who will then contact the appropriate accident investigator. The supervisor of the S.T.A.R team will notify the Traffic Lieutenant.

### 358.4.4 PRESS INFORMATION OFFICER (PIO)

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

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## Death Investigation

### 360.1 PURPOSE AND SCOPE

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

### 360.2 INVESTIGATION CONSIDERATIONS

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

A death will be classified as either an Attended Death or an Unattended Death.

An Attended Death is classified as such when circumstances indicate death resulted from natural causes (i.e., history of illness, old age). The officer assigned to this case will make every effort to notify the decedent's attending physician. If a physician saw the decedent within the last 20 days, and the physician is willing to sign a death certificate, the officer will not write a case. However, in all circumstances, the officer shall notify the coroner to provide him with the circumstances of the death and obtain a release number.

An Unattended Deaths includes:

- (a) No physician in attendance or during the continued absence of the attending physician. Also, includes all deaths outside hospitals and nursing care facilities.);
- (b) Wherein the deceased has not been attended by a physician in the 20 days prior to death.
- (c) Physician unable to state the cause of death. (Unwillingness does not apply. Includes all sudden, unexpected and unusual deaths and fetal deaths when the underlying cause is unknown.)
- (d) Known or suspected homicide;
- (e) Known or suspected suicide;
- (f) Involving any criminal action or suspicion of a criminal act. (Includes child and dependent adult negligence and abuse.);
- (g) Related to or following known or suspected self-induced or criminal abortion;
- (h) Associated with a known or alleged rape or crime against nature;
- (i) Following an accident or injury (primary or contributory). Deaths known or suspected as resulting (in whole or in part) from or related to accident or injury, either old or recent;
- (j) Drowning, fire, hanging, gunshot, stabbing, cutting, starvation, exposure, alcoholism, drug addiction, strangulation or aspiration;



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### *Death Investigation*

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- (k) Accidental poisoning. (Food, chemical, drug, therapeutic agents);
- (l) Occupational diseases or occupational hazards;
- (m) Known or suspected contagious disease and constituting a public hazard;
- (n) All deaths in operating rooms and all deaths where a patient has not fully recovered from an anesthetic, whether in surgery, recovery room or elsewhere;
- (o) In prison or while under sentence. (Includes all in-custody and police involved deaths.);
- (p) All deaths of unidentified persons;
- (q) All deaths of state hospital patients;
- (r) Suspected Sudden Infant Death Syndrome (SIDS) deaths;

The Investigative Services Supervisor or designee will be notified of any suspicious unattended deaths, including all SIDS deaths.

#### 360.2.1 CORONER REQUEST

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

- (a) Unattended deaths (No physician in attendance or during the continued absence of the attending physician. Also, includes all deaths outside hospitals and nursing care facilities.).
- (b) Deaths where the deceased has not been attended by either a physician or a registered nurse, who is a member of a hospice care interdisciplinary team, as defined by subdivision (e) of Section 1746 of the Health and Safety Code in the 20 days prior to death.
- (c) Physician unable to state the cause of death. Unwillingness does not apply. Includes all sudden, unexpected and unusual deaths and fetal deaths when the underlying cause is unknown.
- (d) Known or suspected homicide.
- (e) Known or suspected suicide.
- (f) Involving any criminal action or suspicion of a criminal act. Includes child and dependent adult negligence and abuse.
- (g) Related to or following known or suspected self-induced or criminal abortion.
- (h) Associated with a known or alleged rape or crime against nature.
- (i) Following an accident or injury (primary or contributory). Deaths known or suspected as resulting (in whole or in part) from or related to accident or injury, either old or recent.
- (j) Drowning, fire, hanging, gunshot, stabbing, cutting, starvation, exposure, alcoholism, drug addiction, strangulation or aspiration.

## *Death Investigation*

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- (k) Accidental poisoning (food, chemical, drug, therapeutic agents).
- (l) Occupational diseases or occupational hazards.
- (m) Known or suspected contagious disease and constituting a public hazard.
- (n) All deaths in operating rooms and all deaths where a patient has not fully recovered from an anesthetic, whether in surgery, recovery room or elsewhere.
- (o) In prison or while under sentence. Includes all in-custody and police involved deaths.
- (p) All deaths of unidentified persons.
- (q) All deaths of state hospital patients.
- (r) Suspected Sudden Infant Death Syndrome (SIDS) deaths.
- (s) All deaths where the patient is comatose throughout the period of the physician's attendance. Includes patients admitted to hospitals unresponsive and expire without regaining consciousness.

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

### 360.2.2 SEARCHING DEAD BODIES

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

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

### 360.2.3 DEATH NOTIFICATION

When practical, and if not handled by the Coroner's Office, notification to the next-of-kin of the deceased person shall be made, in person, by the officer assigned to the incident. If the next-of-kin lives in another jurisdiction, a law enforcement official from that jurisdiction shall be requested to make the personal notification. If the relatives live outside this county, the Coroner may be requested to make the notification. The Coroner needs to know if notification has been made. Assigned detectives may need to talk to the next-of-kin.

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#### 360.2.4 UNIDENTIFIED DEAD BODIES

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

#### 360.2.5 DEATH INVESTIGATION REPORTING

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

#### 360.2.6 SUSPECTED HOMICIDE

If the initially assigned officer suspects that the death involves a homicide or other suspicious circumstances, the Investigations Division shall be notified to determine the possible need for a detective to respond to the scene for further immediate investigation.

#### 360.2.7 EMPLOYMENT RELATED DEATHS OR INJURIES

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

### **360.3 GENERAL CONSIDERATIONS**

- (a) Initially, the scene of a death should be treated as if it were a homicide until such time as it can be determined otherwise.
- (b) Investigative reports shall be written in all but attended death cases where the doctor will sign the death certificate. Refer to Palo Alto Police Department's Offense/Classification guide for the proper headings.
- (c) Motor vehicle fatalities will be investigated by patrol and documented according to Policy 502 Traffic Collision Reporting. The on-duty supervisor shall notify the Specialized Traffic Accident Reconstruction Team (STAR) to assist in cases of fatal or major injury collisions.
- (d) The coroner shall be notified in all death cases. Release numbers shall be obtained verbally in all attended death cases. The name of the coroner contacted shall be included in all investigative reports. Unless released by the coroner, an officer shall remain on the scene until the coroner's arrival.
- (e) In all death cases, no attempt shall be made to move, search or alter the body except by the coroner, the coroner's investigator, or after the coroner's release. Exceptions to this rule shall be limited to situations in which there is a danger to human life or a likelihood of the destruction of evidence (i.e., fire scenes, etc.).
- (f) Photographs will be taken, and a diagram will be drawn in all death cases, except those where a doctor will sign the death certificate.
- (g) The Watch Commander shall immediately be notified of all death investigations. The Watch Commander shall, as soon as practical, notify the ISD Body Crimes Supervisor in any suspicious death. In all homicides, the Watch Commander shall notify the FSD Coordinator.

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- (h) Weapons should not be handled unless their loss or destruction is likely. Firearms should not be unloaded unless there is an imminent chance of discharge.

The function of patrol officers at the scene of a homicide or questioned death shall be limited to the following: securing of that scene, a search for suspects, witnesses or additional victims, the rendering of any necessary medical aid and the notification of the patrol supervisor and Watch Commander. Evidence collection, crime scene search and the interviewing of suspects and witnesses shall be conducted by, or under the supervision of, the detective assigned.

### 360.3.1 POST-MORTEM SEXUAL ASSAULT EXAMINATIONS

The Santa Clara County Protocols Section 18 - Post-Mortem Sexual Assault Examinations shall be utilized as a guideline in all cases where investigators suspect a homicide and sexual assault. All personnel are required to read and follow the Santa Clara County Protocols Section 18 - Post-Mortem Sexual Assault Examinations Protocol.

### 360.3.2 AUTOPSY ATTENDANCE

Santa Clara County Protocols Section 23 - Autopsy Attendance Protocol shall be utilized as a guideline for autopsy attendance by law enforcement personnel. All personnel are required to read and follow the Santa Clara County Protocols Section 23 - Autopsy Attendance Protocol.

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## Identity Theft

### 362.1 PURPOSE AND SCOPE

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

This policy is drafted in accordance with the Santa Clara County Protocols Section 15 - Identity Theft Protocol. Personnel shall read and follow the guidelines set forth in the Santa Clara County Protocols Section 15 - Identity Theft Protocol when investigating identity theft.

### 362.2 REPORTING

- (a) In an effort to maintain uniformity in reporting, officers presented with the crime of "identity theft" (Penal Code § 530.6) shall initiate a report for victims residing within the jurisdiction of this department. For incidents of identity theft occurring outside this jurisdiction, officers should observe the following:
  1. For any victim not residing within this jurisdiction, the officer may either take a courtesy report to be forwarded to the victim's residence agency or the victim should be encouraged to promptly report the identity theft to the law enforcement agency where he or she resides.
- (b) While the crime of identity theft should be reported to the law enforcement agency where the victim resides, officers of this department should investigate and report crimes occurring within this jurisdiction which have resulted from the original identity theft (e.g., the identity theft occurred elsewhere, but the credit card fraud occurred and is reported in our jurisdiction).
- (c) Officers should include all known incidents of fraudulent activity (e.g., credit card number applied for in victim's name when the victim has never made such an application) and obtain as much information as possible regarding the incidents. Some examples are as follows:
  1. Document the actual credit card number;
  2. Have the victim obtain the credit card application (or the information that was documented on the application);
  3. If the merchandise was shipped somewhere, obtain the shipping address;
  4. Determine the actual store address where the credit was requested - not the main office;
  5. Request digital photos and videotape (if any) from the appropriate businesses immediately. These initial requests can be made by phone in an attempt to preserve evidence;
  6. Penal Code §530.8 states that if a person discovers an application for credit has been fraudulently made/obtained in the victim's name, the victim is entitled to that

## *Identity Theft*

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information upon presentation of a police report to that business. The person or entity with which the application was filed or the account was opened, shall provide copies of all paper records, records of telephone applications or authorizations or records of electronic applications or authorizations required by this section, without charge, within ten (10) business days of receipt of the person's request and submission of the required police report and identifying information.

- (d) Officers should also cross-reference all known reports made by the victim (e.g., U.S. Secret Service, credit reporting bureaus, U.S. Postal Service and DMV) with all known report numbers. Officers should also assist victims by directing them to make notification of identity theft with the credit reporting bureaus, the DMV and other appropriate agencies as necessary.
- (e) The reporting officer should inform the victim of identity theft that the California Theft Registry is available to help those who are wrongly linked to crimes. The registry can be checked by law enforcement or other authorized persons to investigate whether a criminal history or want was created in the victim's name (Penal Code §530.7). Information regarding the California Identity Theft Registry can be obtained by call toll free (888) 880-0240
- (f) Following supervisory review and departmental processing, the initial report should be forwarded to the appropriate detective for follow up investigation, coordination with other agencies and prosecution as circumstances dictate.
- (g) In order to prevent further identity theft and confusion, the reporting officer will obtain the victim's signature and thumbprint in addition to requiring a copy of a recent phone/utility bill and a copy of the victim's driver's license or passport. Finally, the officer will take a digital photo of the victim and download the photo into the Department's Digital Photograph computer database.

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## Private Persons Arrests

### 364.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the handling of private person's arrests made pursuant to Penal Code § 837.

### 364.2 ADVISING PRIVATE PERSONS OF THE ARREST PROCESS

Penal Code § 836(b) expressly mandates that all officers shall advise victims of domestic violence of the right to make a private person's arrest, including advice on how to safely execute such an arrest. In all other situations, officers should use sound discretion in determining whether or not to advise an individual of the arrest process.

- (a) When advising any individual regarding the right to make a private person's arrest, officers should refrain from encouraging or dissuading any individual from making such an arrest and should instead limit advice to the legal requirements for such an arrest as listed below.
- (b) Private individuals should be discouraged from using force to effect a private person's arrest, and absent immediate threat to their own safety or the safety of others, private individuals should be encouraged to refer matters to law enforcement officials for further investigation or arrest.

### 364.3 ARRESTS BY PRIVATE PERSONS

Penal Code § 837 provides that a private person may arrest another:

- (a) For a public offense committed or attempted in his or her presence;
- (b) When the person arrested has committed a felony, although not in his or her presence;
- (c) When a felony has been in fact committed, and he or she has reasonable cause for believing the person arrested has committed it.

Unlike peace officers, private persons may not make an arrest on suspicion that a felony has been committed - the felony must in fact have taken place.

### 364.4 OFFICER RESPONSIBILITIES

Any officer presented with a private person wishing to make an arrest must determine whether or not there is reasonable cause to believe that such an arrest would be lawful (Penal Code § 847).

- (a) Should any officer determine that there is no reasonable cause to believe that a private person's arrest is lawful, the officer should take no action to further detain or restrain the individual beyond that which reasonably appears necessary to investigate the matter, determine the lawfulness of the arrest and protect the public safety.
  - 1. Any officer who determines that a private person's arrest appears to be unlawful should promptly release the arrested individual pursuant to Penal Code § 849(b)(1). The officer must include the basis of such a determination in a related report.

## *Private Persons Arrests*

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2. Absent reasonable cause to support a private person's arrest or other lawful grounds to support an independent arrest by the officer, the officer should advise the parties that no arrest will be made and that the circumstances will be documented in a related report.
- (b) Whenever an officer determines that there is reasonable cause to believe that a private person's arrest is lawful, the officer may exercise any of the following options:
1. Take the individual into physical custody for booking
  2. Release the individual pursuant to a Notice to Appear
  3. Release the individual pursuant to Penal Code § 849

### **364.5 REPORTING REQUIREMENTS**

In all circumstances in which a private person is claiming to have made an arrest, the individual must complete and sign a department Private Person's Arrest form under penalty of perjury.

In addition to the Private Person's Arrest Form (and any other related documents such as citations, booking forms, etc.), officers shall complete a narrative report regarding the circumstances and disposition of the incident.



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## Anti-Reproductive Rights Crimes Reporting

### 366.1 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.).

### 366.2 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

### 366.3 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 Captain.
- (c) By the tenth day of each month, it shall be the responsibility of the Investigation Division 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.

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## *Anti-Reproductive Rights Crimes Reporting*

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2. Any ARRC(s) reported in the Summary Worksheet shall be accompanied by a copy of the related Data Collection Worksheet(s).

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## Limited English Proficiency Services

### 368.1 PURPOSE AND SCOPE

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

#### 368.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

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

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

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

### 368.2 POLICY

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

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

### 368.3 FOUR-FACTOR ANALYSIS

Since there are many different languages that members could encounter, the Department will utilize the four-factor analysis outlined in the U.S. Department of Justice (DOJ) Guidance to Federal Financial Assistance Recipients, available at the DOJ website, to determine which measures will provide meaningful access to its services and programs. It is recognized that law

## *Limited English Proficiency Services*

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enforcement contacts and circumstances will vary considerably. This analysis, therefore, must remain flexible and will require an ongoing balance of four factors, which are:

- (a) The number or proportion of LEP individuals eligible to be served or likely to be encountered by department members, or who may benefit from programs or services within the jurisdiction of the Department or a particular geographic area.
- (b) The frequency with which LEP individuals are likely to come in contact with department members, programs or services.
- (c) The nature and importance of the contact, program, information or service provided.
- (d) The cost of providing LEP assistance and the resources available.

### **368.4 TYPES OF LEP ASSISTANCE AVAILABLE**

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

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

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

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

### **368.5 WRITTEN FORMS AND GUIDELINES**

Vital documents or those that are frequently used should be translated into languages most likely to be encountered.

### **368.6 AUDIO RECORDINGS**

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

### **368.7 QUALIFIED BILINGUAL MEMBERS**

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

## *Limited English Proficiency Services*

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non-English language to perform complicated tasks, such as conducting interrogations, taking statements, collecting evidence or conveying rights or responsibilities.

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

### **368.8 AUTHORIZED INTERPRETERS**

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

#### **368.8.1 SOURCES OF AUTHORIZED INTERPRETERS**

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

Other sources may include:

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

#### **368.8.2 COMMUNITY VOLUNTEERS AND OTHER SOURCES OF LANGUAGE ASSISTANCE**

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

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

While family or friends of an LEP individual may offer to assist with communication or interpretation, members should carefully consider the circumstances before relying on such

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individuals. For example, children should not be relied upon except in exigent or very informal and non-confrontational situations.

### **368.9 CONTACT AND REPORTING**

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

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

### **368.10 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE**

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

#### **368.10.1 EMERGENCY CALLS TO 9-1-1**

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

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

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

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

### **368.11 FIELD ENFORCEMENT**

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

## *Limited English Proficiency Services*

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

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

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

### **368.12 INVESTIGATIVE FIELD INTERVIEWS**

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

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

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

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

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

### **368.13 CUSTODIAL INTERROGATIONS**

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

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

## *Limited English Proficiency Services*

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### **368.14 BOOKINGS**

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

### **368.15 COMPLAINTS**

The Department shall ensure that LEP individuals who wish to file a complaint regarding members of this department are able to do so. The Department may provide an authorized interpreter or translated forms, as appropriate.

Authorized interpreters used for any interview with an LEP individual during an investigation should not be members of this department.

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

### **368.16 COMMUNITY OUTREACH**

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

### **368.17 TRAINING**

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

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



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## Hearing Impaired/Disabled Communications

### 370.1 PURPOSE AND SCOPE

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

#### 370.1.1 DEFINITIONS

Definitions related to this policy include:

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

**Deaf or hard of hearing** - An individual who has or is regarded as having substantially limited hearing with or without assistance.

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

### 370.2 POLICY

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

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

### 370.3 AMERICANS WITH DISABILITIES (ADA) COORDINATOR

The Chief of Police shall delegate certain responsibilities to an ADA Coordinator (28 CFR 35.107). The ADA Coordinator shall be appointed by, and directly responsible, to the Field Services Division Captain or the authorized designee.

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

- (a) Working with the City ADA coordinator regarding the Palo Alto Police Department's efforts to ensure equal access to services, programs and activities.
- (b) Developing reports, new procedures, or recommending modifications to this policy.
- (c) Acting as a liaison with local disability advocacy groups or other disability groups regarding access to department services, programs and activities.

## *Hearing Impaired/Disabled Communications*

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

### **370.4 FACTORS TO CONSIDER**

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

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

### **370.5 INITIAL AND IMMEDIATE CONSIDERATIONS**

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

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

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### *Hearing Impaired/Disabled Communications*

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

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

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

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

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

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

#### **370.6 TYPES OF ASSISTANCE AVAILABLE**

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

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

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

#### **370.7 AUDIO RECORDINGS AND ENLARGED PRINT**

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

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### **370.8 QUALIFIED INTERPRETERS**

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

Qualified interpreters should be:

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

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

### **370.9 TTY AND RELAY SERVICES**

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

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

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

### **370.10 COMMUNITY VOLUNTEERS**

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

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

### **370.11 FAMILY AND FRIENDS**

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

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

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

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

### **370.12 REPORTING**

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

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

### **370.13 FIELD ENFORCEMENT**

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

The Department recognizes that it would be virtually impossible to provide immediate access to complete communication services to every member of this department. Members and/or supervisors must assess each situation and consider the length, complexity and importance of the

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communication, as well as the individual's preferred method of communication, when determining the type of resources to use and whether a qualified interpreter is needed.

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

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

### **370.13.1 FIELD RESOURCES**

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

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

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

### **370.14 CUSTODIAL INTERROGATIONS**

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

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

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### **370.15 ARREST AND BOOKINGS**

If an individual with speech or hearing disabilities is arrested, the arresting officer shall use department-approved procedures to provide a qualified interpreter at the place of arrest or booking as soon as reasonably practicable, unless the individual indicates that he/she prefers a different auxiliary aid or service or the officer reasonably determines another effective method of communication exists under the circumstances.

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

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

### **370.16 COMPLAINTS**

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

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Qualified interpreters used during the investigation of a complaint should not be members of this Department.

### **370.17 COMMUNITY OUTREACH**

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

### **370.18 TRAINING**

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

- (a) Awareness and understanding of this policy and related procedures, related forms and available resources.
- (b) Procedures for accessing qualified interpreters and other available resources.

## *Hearing Impaired/Disabled Communications*

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- (c) Working with in-person and telephone interpreters and related equipment.

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

### 370.18.1 CALL-TAKER TRAINING

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

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

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



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## Mandatory School Employee Reporting

### 372.1 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.

### 372.2 MANDATORY SCHOOL EMPLOYEE ARREST REPORTING

In the event a school employee is arrested for any controlled substance offense enumerated in Health & Safety Code § 11590, 11364, in so far as that section relates to paragraph (12) of subdivision (d) of Health and Safety Code § 11054, or for any of the offenses enumerated in Penal Code § 290 or in subdivision 1 of Penal Code § 291 or Education Code § 44010, the Chief of Police or his/her designee is required to immediately report the arrest as follows:

#### 372.2.1 ARREST OF PUBLIC SCHOOL TEACHER

Upon arrest for one of the above sections, 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.

#### 372.2.2 ARREST OF PUBLIC SCHOOL NON-TEACHER EMPLOYEE

Upon arrest for one of the above sections, 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.

#### 372.2.3 ARREST OF PRIVATE SCHOOL TEACHER

Upon arrest for one of the above sections, the Chief of Police or his/her designee is mandated to immediately notify by telephone the private school authority employing the teacher and to immediately give written notice of the arrest to the private school authority employing the teacher.

#### 372.2.4 ARREST OF COMMUNITY COLLEGE INSTRUCTOR

Upon the arrest of a community college teacher or instructor for any offense listed in Penal Code § 290 or any offense listed in subdivision (1) of Penal Code § 261, 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 (Penal Code § 291.5).

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## Biological Samples

### 374.1 PURPOSE AND SCOPE

This policy provides guidelines for the collection of biological samples from those individuals required to provide samples upon conviction or arrest for certain offenses. This policy does not apply to biological samples collected at a crime scene or taken from a person in conjunction with a criminal investigation. Nor does it apply to biological samples from those required to register, for example, sex offenders.

### 374.2 POLICY

The Palo Alto Police Department will assist in the expeditious collection of required biological samples from offenders in accordance with the laws of this state and with as little reliance on force as practicable.

### 374.3 PERSONS SUBJECT TO DNA COLLECTION

Those who must submit a biological sample include (Penal Code § 296):

- (a) A person, including a juvenile, upon conviction or other adjudication of any felony offense.
- (b) A person, including a juvenile, upon conviction or other adjudication of any offense if the person has a prior felony on record.
- (c) An adult arrested or charged with any felony.

### 374.4 PROCEDURE

When an individual is required to provide a biological sample, a trained employee shall obtain the sample in accordance with this policy.

#### 374.4.1 COLLECTION

The following steps should be taken to collect a sample:

- (a) Verify that the individual is required to provide a sample pursuant to Penal Code § 296; Penal Code § 296.1.
- (b) Verify that a biological sample has not been previously collected from the offender by querying the individual's criminal history record for a DNA collection flag or, during regular business hours, calling the California Department of Justice (DOJ) designated DNA laboratory. There is no need to obtain a biological sample if one has been previously obtained.
- (c) Use a DNA buccal swab collection kit provided by the California DOJ to perform the collection and take steps to avoid cross contamination.

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### **374.5 USE OF FORCE TO OBTAIN SAMPLES**

If a person refuses to cooperate with the sample collection process, officers should attempt to identify the reason for refusal and seek voluntary compliance without resorting to using force. Force will not be used in the collection of samples except as authorized by court order and only with the approval of a supervisor. Methods to consider when seeking voluntary compliance include contacting:

- (a) The person's parole or probation officer when applicable.
- (b) The prosecuting attorney to seek additional charges against the person for failure to comply or to otherwise bring the refusal before a judge.
- (c) The judge at the person's next court appearance.
- (d) The person's attorney.
- (e) A chaplain.
- (f) Another custody facility with additional resources, where an arrestee can be transferred to better facilitate sample collection.
- (g) A supervisor who may be able to authorize custodial disciplinary actions to compel compliance, if any are available.

The supervisor shall review and approve any plan to use force and be present to document the process.

#### **374.5.1 VIDEO RECORDING**

A video recording should be made anytime force is used to obtain a biological sample. The recording should document all staff participating in the process, in addition to the methods and all force used during the collection. The recording should be part of the investigation file, if any, or otherwise retained in accordance with the department's records retention schedule (15 CCR § 1059).

### **374.6 LEGAL MANDATES AND RELEVANT LAWS**

California law provides for the following:

#### **374.6.1 DOCUMENTATION RELATED TO FORCE**

The Watch Commander shall prepare prior written authorization for the use of any force (15 CCR § 1059). The written authorization shall include information that the subject was asked to provide the requisite specimen, sample or impression and refused, as well as the related court order authorizing the force.

#### **374.6.2 BLOOD SAMPLES**

A blood sample should only be obtained under this policy when:

- (a) The California DOJ requests a blood sample and the subject consents, or
- (b) A court orders a blood sample following a refusal.

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The withdrawal of blood may only be performed in a medically approved manner by health care providers trained and qualified to draw blood. A California DOJ collection kit shall be used for this purpose (Penal Code § 298(a); Penal Code § 298(b)(2)).

#### 374.6.3 LITIGATION

The Chief of Police or authorized designee should notify the California DOJ's DNA Legal Unit in the event this department is named in a lawsuit involving the DNA Data Bank sample collection, sample use or any aspect of the state's DNA Data Bank Program.

## Chaplains

### 376.1 PURPOSE AND SCOPE

The Palo Alto Police Department Chaplain Program is established for the purposes of providing spiritual and emotional support to all members of the Department, their families and members of the public.

### 376.2 POLICY

It is the policy of this department that the Chaplain Program shall be a non-denominational, ecumenical ministry provided by volunteer clergy without financial compensation.

### 376.3 GOALS

Members of the Chaplain Program shall fulfill the program's purpose in the following manner:

- (a) By serving as a resource for department personnel when dealing with the public in such incidents as accidental deaths, suicides, suicidal subjects, serious accidents, drug and alcohol abuse, and other such situations that may arise.
- (b) By providing an additional link between the community, other chaplain programs and the Department.
- (c) By providing counseling, spiritual guidance and insight for department personnel and their families.
- (d) By being alert to the spiritual and emotional needs of department personnel and their families.
- (e) By familiarizing themselves with the role of law enforcement in the community.

### 376.4 REQUIREMENTS

Candidates for the Chaplain Program shall meet the following requirements:

- (a) Must be above reproach, temperate, prudent, respectable, hospitable, able to teach, not be addicted to alcohol or other drugs, not contentious, and free from excessive debt. Must manage their household, family, and personal affairs well. Must have a good reputation with those outside the church.
- (b) Must be ecclesiastically certified and/or endorsed, ordained, licensed, or commissioned by a recognized religious body.
- (c) Must successfully complete an appropriate level background investigation.
- (d) Must have at least five years of successful ministry experience within a recognized church or religious denomination.
- (e) Membership in good standing with the International Conference of Police Chaplains (ICPC).
- (f) Possess a valid California Drivers License.

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### **376.5 SELECTION PROCESS**

Chaplain candidates are encouraged to participate in the ride-along program before and during the selection process. Chaplain candidates shall successfully complete the following process prior to deployment as a chaplain:

- (a) Appropriate written application.
- (b) Recommendation from their church elders, board, or council.
- (c) Interview with Chief of Police & Chaplain Supervisor
- (d) Successfully complete an appropriate level background investigation.
- (e) Complete an appropriate probationary period as designated by the Chief of Police.

### **376.6 DUTIES AND RESPONSIBILITIES**

The duties of a chaplain include, but are not limited to, the following:

- (a) Assisting in making notification to families of department members who have been seriously injured or killed.
- (b) After notification, responding to the hospital or home of the department member.
- (c) Visiting sick or injured law enforcement personnel in the hospital or at home.
- (d) Attending and participating, when requested, in funerals of active or retired members of the Department.
- (e) Assisting sworn personnel in the diffusion of a conflict or incident, when requested.
- (f) Responding to natural and accidental deaths, suicides and attempted suicides, family disturbances and any other incident that in the judgment of the Watch Commander or supervisor aids in accomplishing the Department's mission.
- (g) Being on-call and if possible, on-duty during major demonstrations or any public function that requires the presence of a large number of department personnel.
- (h) Counseling officers and other personnel with personal problems, when requested.
- (i) Attending department and academy graduations, ceremonies and social events and offering invocations and benedictions, as requested.
- (j) Being responsible for the organization and development of spiritual organizations in the Department.
- (k) Responding to all major disasters such as earthquakes, bombings and similar critical incidents.
- (l) Providing liaison with various religious leaders of the community.
- (m) Assisting public safety personnel and the community in any other function of the clergy profession, as requested.

## Chaplains

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- (n) Participating in in-service training classes.
- (o) Willing to train to enhance effectiveness.
- (p) Promptly facilitating requests for representatives or ministers of various denominations.
- (q) Making referrals in cases where specialized attention is needed or in cases that are beyond the chaplain's ability to assist.

Chaplains may not proselytize or attempt to recruit members of the department or the public into a religious affiliation while on-duty unless the receiving person has solicited spiritual guidance or teaching. If there is any question as to the receiving person's intent, chaplains should verify that the person is desirous of spiritual counseling or guidance before engaging in such discussion.

Chaplains may not accept gratuities for any service or follow-up contacts that was provided while functioning as a chaplain for the Palo Alto Police Department.

### **376.7 CLERGY-PENITENT CONFIDENTIALITY**

No person who provides chaplain services to members of the department may work or volunteer for the Palo Alto Police Department in any capacity other than that of chaplain.

Department chaplains shall be familiar with state evidentiary laws and rules pertaining to the limits of the clergy-penitent privilege and shall inform department members when it appears reasonably likely that the member is discussing matters that are not subject to the clergy-penitent privilege. In such cases, the chaplain should consider referring the member to a non-department counseling resource.

No chaplain shall provide counsel to or receive confidential communications from any Palo Alto Police Department employees concerning an incident personally witnessed by the chaplain or concerning an incident involving the chaplain.

### **376.8 COMMAND STRUCTURE**

- (a) Under the general direction of the Chief of Police or his/her designee, chaplains shall report to the Senior Chaplain and/or Watch Commander.
- (b) The Chief of Police shall make all appointments to the Chaplain Program and will designate a Senior Chaplain/Chaplain Commander.
- (c) The Senior Chaplain shall serve as the liaison between the Chaplain Unit and the Chief of Police. He/she will arrange for regular monthly meetings, act as chairman of all chaplain meetings, prepare monthly schedules, maintain records on all activities of the Chaplain Unit, coordinate activities that may concern the members of the Chaplain Unit and arrange for training classes for chaplains.

## *Chaplains*

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### **376.9 OPERATIONAL GUIDELINES**

- (a) The Chaplain shall be permitted to ride with officers during any shift and observe Palo Alto Police Department operations, provided the Watch Commander has been notified and approved of the activity.
- (b) The Chaplain shall not be evaluators of employees and shall not be required to report on an employee's performance or conduct.
- (c) In responding to incidents, the Chaplain shall never function as an officer.
- (d) When responding to in-progress calls for service, the Chaplains may be required to stand-by in a secure area until the situation has been deemed safe.
- (e) The Chaplain shall serve only within the jurisdiction of the Palo Alto Police Department unless otherwise authorized by the Chief of Police or his designee.
- (f) The Chaplain shall have access to current personnel rosters, addresses, telephone numbers, duty assignments and other information that may assist in their duties. Such Information will be considered confidential and each chaplain will exercise appropriate security measures to prevent distribution of the information.

#### **376.9.1 UNIFORMS AND BADGES**

A distinct uniform, badge and necessary safety equipment will be provided for the Chaplains. This uniform may be similar to that worn by the personnel of this department.

#### **376.10 TRAINING**

The Department will establish a minimum number of training hours and standards for department chaplains. The training may include stress management, death notifications, post-traumatic stress syndrome, burnout for officers and chaplains, legal liability and confidentiality, ethics, responding to crisis situations, the law enforcement family, substance abuse, suicide, officer injury or death, and sensitivity and diversity, as approved by the Personnel and Training Lieutenant.



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## Public Safety Camera System

### 378.1 PURPOSE AND SCOPE

The City of Palo Alto operates a public safety camera system for the purpose of creating a safer environment for all those who live, work and visit the City. This policy explains the purpose of the cameras and provides guidelines for their operation and for the storage of captured images.

### 378.2 POLICY

Cameras may be placed in strategic locations throughout the City at the direction or with the approval of the Chief of Police. These cameras can be used for detecting and deterring crime, to help safeguard against potential threats to the public, to help manage emergency response situations during natural and man-made disasters and to assist City officials in providing services to the community.

### 378.3 PROCEDURE

The following procedures have been established for the effective operation of the public safety camera system.

#### 378.3.1 MONITORING

Images from each camera will be recorded on a 24-hour basis every day of the week. These images will be transmitted to monitors installed in the Watch Commander's Office and the Communications Center. When activity warranting further investigation is reported or detected at any camera location, the dispatcher may selectively view the appropriate camera and relay any available information to responding units. The Watch Commander or the Communications Center personnel are authorized to adjust the cameras to more effectively view a particular area for any legitimate public safety purpose.

The Chief of Police may authorize video feeds from the public safety camera system to be set up at a location other than the Communications Center for monitoring by other than police personnel when the provision of such access is in furtherance of this policy.

The cameras only record images and do not record sound. Recorded images may be used for a variety of purposes, including criminal investigations and monitoring of activity around high value or high threat areas. In addition, the public safety camera system may be useful for the following purposes:

- (a) To assist in identifying, apprehending and prosecuting offenders.
- (b) To assist in gathering evidence for criminal and civil court actions.
- (c) To help emergency services personnel maintain public order.
- (d) To monitor pedestrian and vehicle traffic activity.
- (e) To help improve the general environment on the public streets.

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(f) To assist in providing effective public services.

### **378.3.2 TRAINING**

Personnel involved in video monitoring will be appropriately trained and supervised.

### **378.3.3 PROHIBITED ACTIVITY**

Video monitoring will be conducted in a professional, ethical and legal manner. The public safety camera system will not be used to invade the privacy of individuals, to look into private areas or areas where the reasonable expectation of privacy exists. All reasonable efforts will be taken to protect these rights. Video monitoring shall not be used to harass, intimidate or discriminate against any individual or group.

### **378.3.4 CAMERA MARKINGS**

Except in the case of covert operations or confidential investigations, all public areas that are monitored by public safety cameras shall be marked in a conspicuous manner with appropriate signs to inform the public that the area is under police surveillance. Signs shall be well lit to ensure visibility.

## **378.4 MEDIA STORAGE**

All media will be stored in a secure area with access restricted to authorized persons.

Recordings not otherwise needed for official reasons shall be retained for a period of not less than seven days and thereafter may be erased. The system shall be configured to automatically purge any recordings older than 30 days.

## **378.5 REVIEW OR RELEASE OR OF VIDEO IMAGES**

The review or the release of video images shall be done only with the authorization of the Chief of Police or his/her designee and only with a properly completed written request. Video images needed for a criminal investigation or other official reason shall be collected and booked in accordance with current departmental evidence procedures.

### **378.5.1 PUBLIC AND OTHER AGENCY REQUESTS**

Requests for recorded video images from other government agencies or by the submission of a court order or subpoena shall be promptly submitted to the Communications Manager, who will promptly research the request and submit the results of such search through the Chief of Police to the City Attorney's office for further handling. Every reasonable effort should be made to preserve the data requested until the request has been fully processed by the City Attorney's office.

Video images captured by public safety cameras that are requested by the public or media will be made available only to the extent required by law. Except as required by a valid court order or other lawful process, video images requested under the Public Records Act will generally not be disclosed to the public when such video images are evidence in an ongoing criminal investigation in which a disposition has not been reached.

## *Public Safety Camera System*

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### **378.6 ANNUAL REVIEW OF THE PUBLIC SAFETY CAMERA SYSTEM**

The Chief of Police or his/her designee will conduct an annual review of the public safety camera system. The annual review will include an inventory of video monitoring installations, date of installation, summary of the purpose, adherence to this policy and any proposed policy changes. The results of each review will be documented and maintained by the Chief of Police or his/her designee and other applicable advisory bodies. Any concerns or deviations from this policy will be addressed promptly and effectively.

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## Child Safety Policy

### 380.1 PURPOSE AND SCOPE

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

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

### 380.2 POLICY

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

### 380.3 PROCEDURES DURING AN ARREST

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

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

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

Whenever it is safe to do so, officers should allow the parent or caregiver to assure children or dependent adults that they will be provided care. If this is not safe or if the demeanor of the parent or caregiver suggests this conversation would be non-productive, the officer at the scene should explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that he/she will receive appropriate care.

## *Child Safety Policy*

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### 380.3.1 AFTER AN ARREST

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

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

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

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

### 380.3.2 DURING THE BOOKING PROCESS

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

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

## *Child Safety Policy*

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### **380.3.3 SUPPORT AND COUNSELING REFERRAL**

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

### **380.4 DEPENDENT WELFARE SERVICES**

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

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

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

### **380.5 TRAINING**

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

## Service Animals

### 382.1 PURPOSE AND SCOPE

Service animals play an important role in helping to overcome the limitations often faced by people with disabilities. The Palo Alto Police Department recognizes this need and is committed to making reasonable modifications to its policies, practices, and procedures in accordance with Title II of the Americans with Disabilities Act of 1990 (ADA) to permit the use of service animals that are individually trained to assist a person with a disability.

### 382.2 SERVICE ANIMALS

The ADA defines a service animal as any dog or miniature horse that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. The work or tasks performed by a service animal must be directly related to the owner's disability (28 CFR 35.104).

California expands the definition of a service animal to include other animals that are individually trained to provide assistance to an individual with a disability (Healthy and Safety Code § 113903).

#### 382.2.1 USE OF SERVICE ANIMALS

Some service animals may be readily identifiable. However, many do not have a distinctive symbol, harness or collar. Service animals are not pets and may be trained by an individual or organization to assist people with disabilities.

The following examples are some of the ways service animals may be used to provide assistance:

- Guiding people who are blind or have low vision.
- Alerting people who are deaf or hard of hearing.
- Retrieving or picking up items, opening doors or flipping switches for people who have limited use of their hands, arms or legs.
- Pulling wheelchairs.
- Providing physical support and assisting with stability and balance.
- Doing work or performing tasks for persons with traumatic brain injury, intellectual disabilities or psychiatric disabilities, such as reminding a person with depression to take medication.
- Alerting a person with anxiety to the onset of panic attacks, providing tactile stimulation to calm a person with post-traumatic stress disorder, assisting people with schizophrenia to distinguish between hallucinations and reality, and helping people with traumatic brain injury to locate misplaced items or follow daily routines.

### 382.3 MEMBER RESPONSIBILITIES

Service animals that are assisting individuals with disabilities are permitted in all public facilities and areas where the general public is allowed. Department members are expected to treat

# Palo Alto Police Department

## Policy Manual

### *Service Animals*

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individuals with service animals with the same courtesy and respect that the Palo Alto Police Department affords to all members of the public.

If an animal exhibits vicious behavior, poses a direct threat to the health of others or unreasonably disrupts or interferes with normal business operations, an officer may direct the owner to remove the animal from the premises. Barking alone is not a threat nor does a direct threat exist if the person takes prompt, effective action to control the animal. Each incident must be considered individually and past incidents alone are not cause for excluding a service animal. Removal of a service animal may not be used as a reason to refuse service to an individual with disabilities. Members of this department are expected to provide all services as are reasonably available to an individual with the disability.

If it is apparent or if an officer is aware the animal is a service animal, the owner should not be asked any questions as to the status of the animal. If it is unclear whether an animal meets the definition of a service animal, the officer should ask the individual only the following questions:

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

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

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

When handling calls of a complaint regarding a service animal, members of this department should remain neutral and should be prepared to explain the ADA requirements concerning service animals to the concerned parties. Businesses are required to allow service animals to accompany their owner into all areas that other customers or members of the public are allowed.

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



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## Off-Duty Law Enforcement Actions

### 386.1 PURPOSE AND SCOPE

The decision to become involved in a law enforcement action when off-duty can place an officer as well as others at great risk and must be done with careful consideration. This policy is intended to provide guidelines for officers of the Palo Alto Police Department with respect to taking law enforcement action while off-duty.

### 386.2 POLICY

Initiating law enforcement action while off-duty is generally discouraged. Officers should not attempt to initiate enforcement action when witnessing minor crimes, such as suspected intoxicated drivers, reckless driving or minor property crimes. Such incidents should be promptly reported to the appropriate law enforcement agency.

Officers are not expected to place themselves in unreasonable peril. However, any sworn member of this department who becomes aware of an incident or circumstance that he/she reasonably believes poses an imminent threat of serious bodily injury or death, or significant property damage may take reasonable action to minimize the threat.

When public safety or the prevention of major property damage requires immediate action, officers should first consider reporting and monitoring the activity and only take direct action as a last resort.

In all cases where enforcement action is taken outside the jurisdiction of Palo Alto, officers are required to adhere to the current policies, procedures, rules and guidelines of the Policy Manual.

### 386.3 FIREARMS

Officers of this department may carry firearms while off-duty in accordance with federal regulations and department policy. All firearms and ammunition must meet guidelines as described in the department Firearms and Qualification Policy. When carrying firearms while off-duty officers shall also carry their department-issued badge and identification.

Officers should refrain from carrying firearms when the consumption of alcohol is likely or when the need to carry a firearm is outweighed by safety considerations. Firearms shall not be carried by any officer who has consumed an amount of an alcoholic beverage or taken any drugs that would tend to adversely affect the officer's senses or judgment.

### 386.4 DECISION TO INTERVENE

There is no legal requirement for off-duty officers to take law enforcement action. However, should officers decide to intervene, they must evaluate whether the action is necessary or desirable, and should take into consideration the following:

- (a) The tactical disadvantage of being alone and the fact there may be multiple or hidden suspects.

## *Off-Duty Law Enforcement Actions*

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- (b) The inability to communicate with responding units.
- (c) The lack of equipment, such as handcuffs, OC or baton.
- (d) The lack of cover.
- (e) The potential for increased risk to bystanders if the off-duty officer were to intervene.
- (f) Unfamiliarity with the surroundings.
- (g) The potential for the off-duty officer to be misidentified by other peace officers or members of the public.

Officers should consider waiting for on-duty uniformed officers to arrive, and gather as much accurate intelligence as possible instead of immediately intervening.

### **386.4.1 INTERVENTION PROCEDURE**

If involvement is reasonably necessary the officer should attempt to call or have someone else call 9-1-1 to request immediate assistance. The dispatcher should be informed that an off-duty officer is on-scene and should be provided a description of the officer if possible.

Whenever practicable, the officer should loudly and repeatedly identify him/herself as an Palo Alto Police Department officer until acknowledged. Official identification should also be displayed.

### **386.4.2 INCIDENTS OF PERSONAL INTEREST**

Officers should refrain from handling incidents of personal interest, (e.g., family or neighbor disputes) and should remain neutral. In such circumstances officers should call the responsible agency to handle the matter.

### **386.4.3 CIVILIAN RESPONSIBILITIES**

Civilian personnel should not become involved in any law enforcement actions while off-duty except to notify the local law enforcement authority and remain at the scene, if safe and practicable.

### **386.4.4 OTHER CONSIDERATIONS**

When encountering a non-uniformed officer in public, uniformed officers should wait for acknowledgement by the non-uniformed officer in case he/she needs to maintain an undercover capability.

## **386.5 REPORTING**

Any off-duty officer who engages in any law enforcement activity, regardless of jurisdiction, shall notify the Watch Commander as soon as practicable. The Watch Commander shall determine whether a report should be filed by the employee.

Officers should cooperate fully with the agency having jurisdiction in providing statements or reports as requested or as appropriate.

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## Illness and Injury Prevention

### 388.1 PURPOSE AND SCOPE

The health and safety of the employees of the Palo Alto Police Department is important to executive and management staff, and critical to the operation of this department and the delivery of services to the community.

The purpose of this policy is to establish an ongoing and effective Injury and Illness Prevention Program (IIPP) for the Palo Alto Police Department, in accordance with the requirements of 8 CCR § 3203. This policy specifically applies to illnesses and injuries that result in lost time beyond the date of the incident or that require medical treatment beyond first aid. Though this policy provides the essential framework required for an IIPP, it may be supplemented by procedures outside the Policy Manual.

The IIPP guidelines are to be followed and adopted by all personnel. Supervisory and management personnel are charged with ensuring that these guidelines and directives are implemented.

### 388.2 RESPONSIBILITY

The City Safety Officer, acting as the Department's IIPP administrator, has the authority and responsibility for implementing the provisions of this policy and the IIPP. Supervisors are responsible for implementing and maintaining the IIPP in their work areas and for answering questions from employees about the IIPP.

### 388.3 COMPLIANCE

The City Safety Officer is responsible for ensuring that all safety and health policies and procedures are clearly communicated and understood by all employees. The Administrative Services Supervisor should take reasonable steps to ensure that all workers comply with safety rules and maintain a safe work environment, including, but not limited to:

- (a) Informing workers of the provisions of the IIPP.
- (b) Recognizing employees who perform safe work practices.
- (c) Ensuring that the employee evaluation process includes the employee's safety performance.
- (d) Ensuring the Department's compliance with mandates regarding:
  1. Bloodborne pathogens (8 CCR § 5193).
  2. Airborne transmissible diseases (8 CCR § 5199).
  3. Heat illness (8 CCR § 3395).
  4. Respiratory protection (8 CCR § 5144).

## *Illness and Injury Prevention*

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Supervisors are responsible for training, counseling, instructing or making informal verbal admonishments anytime safety performance is deficient. Supervisors may also initiate discipline when it is reasonable and appropriate under the Conduct Policy.

All employees should use safe work practices, follow all directives and policies and assist in maintaining a safe work environment.

### **388.4 COMMUNICATION**

Supervisors shall establish and maintain communication with employees on health and safety issues. This is essential for an injury-free, productive workplace.

(a) The City Safety Officer will ensure that a system of communication is in place which facilitates a continuous flow of safety and health information between supervisors and employees. This system shall include:

1. New worker orientation, including a discussion of safety and health policies and procedures.
2. Regular employee review of the IIPP.
3. Workplace safety and health training programs.
4. Regularly scheduled safety meetings.
5. Posted or distributed safety information.
6. A system for workers to anonymously inform management about workplace hazards.
7. Establishment of a labor/management safety and health committee, which will:
  - (a) Meet regularly.
  - (b) Prepare a written record of the safety and health committee meeting.
  - (c) Review the results of periodic scheduled inspections.
  - (d) Review investigations of accidents and exposures.
  - (e) Make suggestions to management for the prevention of future incidents.
  - (f) Review investigations of alleged hazardous conditions.
  - (g) Submit recommendations to assist in the evaluation of employee safety suggestions.
  - (h) Assess the effectiveness of the Department's efforts to meet the following mandates:
    1. Bloodborne pathogens (8 CCR § 5193)
    2. Airborne transmissible diseases (8 CCR § 5199)
    3. Heat illness prevention (8 CCR § 3395).

## *Illness and Injury Prevention*

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### **388.5 HAZARD ASSESSMENT**

Safety inspections are crucial to a safe work environment. These inspections identify and evaluate workplace hazards utilizing the applicable sections of the Hazard Assessment Checklist to ensure a thorough inspection. These checklists can be found at on the California Department of Industrial Relations website.

#### **388.5.1 ADMINISTRATIVE SERVICES SUPERVISOR INSPECTION DUTIES**

The City Safety Officer shall ensure an Identified Hazard and Correction Record (located on the California Department of Industrial Relations website) is completed for each inspection.

#### **388.5.2 PATROL OFFICERS INSPECTION DUTIES**

Officers are charged with daily vehicle inspection of an assigned vehicle and of personal protective equipment prior to working in the field. Officers shall complete an Identified Hazard and Correction Form if an unsafe condition cannot be immediately corrected. Officers should forward this report to their supervisor.

#### **388.5.3 SUPERVISOR ASSESSMENT DUTIES**

Supervisors should inform the City Safety Officer when the following occurs:

- New substances, processes, procedures or equipment that present potential new hazards are introduced into the work environment.
- New, previously unidentified hazards are recognized.
- Occupational injuries and illnesses occur.
- New and/or permanent or intermittent workers are hired or reassigned to processes, operations or tasks for which a hazard evaluation has not been previously conducted.
- Whenever workplace conditions warrant an inspection.

The City Safety Officer will take appropriate action to ensure the IIPP addresses potential hazards upon such notification.

### **388.6 ACCIDENT/EXPOSURE INVESTIGATIONS**

Employees must report all injuries that are a result of a workplace accident and any hazardous substance exposure to a supervisor. A supervisor receiving such a report should personally investigate the incident or ensure that an investigation is conducted. Investigative procedures for workplace accidents and hazardous substance exposures should include:

- A visit to the accident scene as soon as possible.
- An interview of the injured worker and witnesses.
- An examination of the workplace for factors associated with the accident/exposure.
- Determination of the cause of the accident/exposure.
- Corrective action to prevent the accident/exposure from reoccurring.

## *Illness and Injury Prevention*

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- A record of the findings and corrective actions taken, using the Investigation/Corrective Action Report (<http://www.dir.ca.gov/DOSH/etools/09-031/InvestigationReport.pdf>).

### **388.7 HAZARD CORRECTION**

All employees should report and/or take reasonable steps to correct unsafe or unhealthy work conditions, practices or procedures in a timely manner. Employees should make their reports to a supervisor (as a general rule, their own supervisor).

Supervisors should make reasonable efforts to correct unsafe or unhealthy work conditions in a timely manner based on the severity of the hazards. Hazards should be corrected when observed or discovered, when it is reasonable to do so. When a hazard exists that cannot be immediately abated without endangering employees or property, supervisors should protect or remove all exposed workers from the area or item, except those necessary to correct the existing condition.

Employees who are necessary to correct the hazardous condition shall be provided with the necessary protection.

All significant actions taken and dates they are completed shall be documented on an Identified Hazard and Correction Form. This should be forwarded to the Administrative Services Supervisor via the chain of command.

### **388.8 TRAINING AND INSTRUCTION**

The City Safety Officer shall work with the Personnel and Training Lieutenant to ensure that all workers, including supervisors, are trained on general and job-specific, workplace safety and health practices. Training shall be provided as follows:

- To all new employees for those tasks that were not sufficiently covered by previous training from an academy or another training provider.
- To all workers given new job assignments for which training has not previously been provided.
- Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard.
- Whenever the department is made aware of a new or previously unrecognized hazard.
- To supervisors to familiarize them with the safety and health hazards to which workers under their immediate direction and control may be exposed.
- To all workers with respect to hazards that are specific to each employee's job assignment.
- An explanation of the department's IIPP, emergency action plan and fire prevention plan; measures for reporting any unsafe conditions, work practices and injuries; and informing a supervisor when additional instruction is needed.
- The use of appropriate clothing, including gloves, footwear and personal protective equipment.

## *Illness and Injury Prevention*

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- Information about chemical hazards to which employees could be exposed.
- The availability of toilet, hand-washing and drinking-water facilities.
- Provisions for medical services and first aid, including emergency procedures.
- Steps to prevent heat illness (8 CCR § 3395).

### **388.9 RECORDKEEPING**

The City Safety Officer will do the following to implement and maintain IIPP records:

- (a) Make available the Identified Hazards and Correction Record Form to document inspections, any unsafe condition or work practice, and actions taken to correct unsafe conditions and work practices.
- (b) Make available the Investigation/Corrective Action Report (<http://www.dir.ca.gov/DOSH/etools/09-031/InvestigationReport.pdf>) to document individual incidents or accidents.
- (c) Develop a Worker Training and Instruction Form to document the safety and health training of each employee. This form will include the employee's name or other identifier, training dates, type of training, and training providers.
- (d) Retain inspection records and training documentation for a minimum of one year.

### **388.10 TRAINING SUBJECTS**

The City Safety Officer should work with the Personnel and Training Lieutenant to ensure training is provided on the following topics:

- Driver safety
- Safe procedures for handling, cleaning and/or storing weapons
- Good housekeeping and fire prevention
- Back exercises/stretching and proper lifting techniques
- Lock-out/tag-out procedures
- Hazardous materials
- Building searches
- Slips and falls
- Ergonomic hazards, including working on ladders or in a stooped posture for prolonged periods
- Personal protective equipment
- Respiratory equipment
- Hazardous chemical exposures

## *Illness and Injury Prevention*

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- Hazard communication
- Physical hazards, such as heat/cold stress, noise, and ionizing and non-ionizing radiation
- Bloodborne pathogens and other biological hazards
- Other job-specific hazards



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## Diggler Electric Scooter Guidelines

### 389.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines when using the Diggler Electric Scooter.

#### 389.1.1 ENFORCEMENT ON SCOOTER

The scooter is inherently an unstable platform, far more so than a bicycle "" it is expected that you follow the following guidelines:

- (a) Step off the scooter and engage suspects on foot, as opposed to trying to do so while in motion.
- (b) Avoid physically engaging suspects while riding the scooter when possible;
- (c) Avoid using weapons while riding the scooter, when possible;
- (d) Wear your department-issued reflective vest when conducting patrol operations during night; time hours, unless given a specific exception by the watch commander for good cause.

#### 389.1.2 CALIFORNIA VEHICLE CODE REQUIREMENTS

- (a) Wear a bicycle helmet Possess a valid California driver's license;
- (b) Must ride on streets with speed limit of 25mph or less;
  - 1. Exception: May ride in the bicycle lane on a street with a faster speed limit
  - 2. Do not ride on the sidewalk (unless conducting active enforcement)
- (c) Must use headlight at night.

#### 389.1.3 CARE AND MAINTENANCE

- (a) Do not purposely ride the scooter in an abusive manner.
- (b) Turn scooter electronics off and plug into charger when not in use.
- (c) Charge the NiteRider headlight system as necessary.
- (d) If the charge indicator reads "LOW" (yellow light), return the scooter to the station IMMEDIATELY "" DO NOT drain the batteries entirely.
- (e) Report any problems to the Staff Assistant immediately.

## Chapter 4 - Patrol Operations

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## Patrol Function

### 400.1 PURPOSE AND SCOPE

The purpose of this policy is to define the functions of the patrol unit of the Department to ensure intra-department cooperation and information sharing.

#### 400.1.1 FUNCTION

Officers will generally patrol in clearly marked vehicles, patrol assigned jurisdictional areas of Palo Alto, respond to calls for assistance, act as a deterrent to crime, enforce state and local laws and respond to emergencies 24 hours per day seven days per week.

Patrol will generally provide the following services within the limits of available resources:

- (a) Patrol that is directed at the prevention of criminal acts, traffic violations and collisions, the maintenance of public order, and the discovery of hazardous situations or conditions
- (b) Crime prevention activities such as residential inspections, business inspections, community presentations, etc.
- (c) Calls for service, both routine and emergency in nature
- (d) Investigation of both criminal and non-criminal acts
- (e) The apprehension of criminal offenders
- (f) Community Oriented Policing and Problem Solving activities such as citizen assists and individual citizen contacts of a positive nature
- (g) The sharing of information between the Patrol and other division within the Department, as well as other outside governmental agencies
- (h) The application of resources to specific problems or situations within the community, which may be improved or resolved by Community Oriented Policing and problem solving strategies
- (i) Traffic direction and control

#### 400.1.2 TERRORISM

It is the goal of the Palo Alto Police Department to make every reasonable effort to accurately and appropriately gather and report any information that may relate to either foreign or domestic terrorism. Officers should advise a supervisor as soon as practicable of any activity believed to be terrorism related and should document such incidents with a written report or Field Interview (FI). The supervisor should ensure that all terrorism related reports and FIs are forwarded to the Investigative Services Supervisor in a timely fashion.

### 400.2 PATROL INFORMATION SHARING PROCEDURES

The following guidelines are intended to develop and maintain intra-department cooperation and information flow between the various divisions of the Palo Alto Police Department.

# Palo Alto Police Department

## Policy Manual

### *Patrol Function*

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#### 400.2.1 CRIME ANALYSIS UNIT

The Crime Analysis Unit (CAU) will be the central unit for information exchange. Criminal information and intelligence reports can be submitted to the Technical Services Division for distribution to all divisions within the Department through daily and special bulletins.

#### 400.2.2 CRIME REPORTS

A crime report may be completed by any patrol officer who receives criminal information. The report will be processed and forwarded to the appropriate bureau for retention or follow-up investigation.

#### 400.2.3 PATROL BRIEFINGS

Patrol supervisors, detective sergeants, and special unit sergeants are encouraged to share information as much as possible. All supervisors and/or officers will be provided an opportunity to share information at the daily patrol Briefings as time permits.

#### 400.2.4 INFORMATION CLIPBOARDS

Several information clipboards will be maintained in the briefing room and will be available for review by officers from all divisions within the Department. These will include, but not be limited to, the patrol check clipboard, the wanted persons clipboard, and the written directive clipboard.

#### 400.2.5 BULLETIN BOARDS

A bulletin board will be kept in the briefing room and the Investigative Services for display of suspect information, intelligence reports and photographs. New Interim Directives will be made available for patrol supervisors and will be discussed at briefings and shift meetings. A copy of the Interim Directive will be placed on the briefing room clipboard.

### **400.3 CROWDS, EVENTS AND GATHERINGS**

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

Officers responding to an event or gathering that warrants law enforcement involvement should carefully balance the speech and association rights of those present with applicable public safety concerns before taking enforcement action. Officers are encouraged to contact organizers or responsible persons to seek voluntary compliance that may address relevant public safety/order concerns.

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

## Fair and Impartial Policing

### 402.1 PURPOSE AND SCOPE

The Palo Alto Police Department strives to provide law enforcement to our community with due regard to the racial and cultural differences of those we serve. It shall therefore be the policy and practice of this department to provide law enforcement services and to enforce the law equally and fairly without discrimination toward any individual(s) or group because of their race, ethnicity or nationality, religion, gender, sexual orientation, or disability.

This policy is intended to reaffirm the commitment of the Palo Alto Police Department to fair and impartial policing, to clarify situations in which officers can consider race or ethnicity when making law enforcement decisions and to reinforce procedures that serve to assure the community that we are providing service and enforcing the law in an unbiased manner.

#### 402.1.1 DEFINITION

Definitions related to this policy include:

Racial/Bias based profiling, for purposes of this section, is the practice of detaining a suspect based on a broad set of criteria which casts suspicion on an entire class of people without any individualized suspicion of the particular person being stopped (Penal Code § 13519.4(e)).

### 402.2 POLICY

The Palo Alto Police Department is committed to providing law enforcement services to the community with due regard for the racial, cultural or other differences of those served. It is the policy of this department to provide law enforcement services and to enforce the law equally, fairly and without discrimination toward any individual or group.

The practice of racial/bias based profiling is illegal and will not be tolerated by this Department (Penal Code § 13519.4(f)). It is the responsibility of every member of this department to prevent, report, and respond appropriately to clear discriminatory or biased practices. 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 their actions. Race or ethnicity cannot be the sole basis for establishing reasonable suspicion or probable cause. Officers may take into account the reported physical description including race or ethnicity of a specific suspect or suspects based on credible, relevant information that links that person or persons to possible criminal activity.

Race or ethnicity shall not be motivating factors in making law enforcement decisions, including decisions about the disposition of people or their property. Each officers shall do the following when conducting pedestrian, bicycle and vehicle stops:

- (a) Be courteous and professional
- (b) Greet the person and state the reason for the stop as soon as practical

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### *Fair and Impartial Policing*

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- (c) On vehicle stops, the officer shall provide this information before asking the driver for his or her license and registration, unless doing so would compromise officer or public safety
- (d) Ensure that the detention is no longer than necessary to take appropriate action for the known or suspected offense, and the person understands the purpose of reasonable delays
- (e) Answer any questions the person may have including explaining options for traffic citation disposition, if relevant.
- (f) If the reasonable suspicion for the stop is dispelled or it was determined that the stop was made in error, the officer will explain why the error occurred and appropriately apologize
- (g) When requested, officers will provide their name and ID number either verbally or in writing.

Supervisors shall ensure that all Agents and Officers assigned to their teams are familiar with the content of this policy and are in compliance with it.

The Palo Alto Police Department will investigate all complaints of alleged racial/bias based profiling complaints against its members. Employees found to be in violation of this policy are subject to discipline in accordance with this department's disciplinary policy.

#### **402.3 RACIAL- OR BIAS-BASED PROFILING PROHIBITED**

Racial- or bias-based profiling is strictly prohibited. However, nothing in this policy is intended to prohibit an officer from considering factors such as race or ethnicity in combination with other legitimate factors to establish reasonable suspicion or probable cause (e.g., suspect description is limited to a specific race or group).

#### **402.4 MEMBER RESPONSIBILITY**

Every member of this department shall perform his/her duties in a fair and objective manner and is responsible for promptly reporting any known instances of racial- or bias-based profiling to a supervisor.

##### **402.4.1 REASON FOR DETENTION**

Officers detaining a person shall be prepared to articulate sufficient reasonable suspicion to justify a detention, independent of the individual's membership in a protected class.

To the extent that written documentation would otherwise be completed (e.g., arrest report, Field Interview (FI) card), the involved officer should include those facts giving rise to the officer's reasonable suspicion or probable cause for the detention, as applicable.

Nothing in this policy shall require any officer to document a contact that would not otherwise require reporting.

#### **402.5 SUPERVISOR RESPONSIBILITY**

Supervisors shall monitor those individuals under their command for any behavior that may conflict with the purpose of this policy and shall handle any alleged or observed violation of this policy in accordance with the Personnel Complaints Policy.

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- (a) Supervisors should discuss any issues with the involved officer and his/her supervisor in a timely manner.
- (b) Supervisors shall initiate investigations of any actual or alleged violations of this policy.
- (c) Supervisors should ensure that no retaliatory action is taken against any member of this department who discloses information concerning racial- or bias-based profiling.

### **402.6 TRAINING**

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

- (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 and cultural trends (Penal Code § 13519.4(i)).

## Briefing Training

### 404.1 PURPOSE AND SCOPE

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

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

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

### 404.2 PREPARATION OF MATERIALS

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

Briefing Training: Supervisors will insure that all briefing training should be documented on a "Briefing Training" form with a brief outline summarizing the training. The Briefing Training Form and the outlines will be forwarded to the Personnel and Training Unit.



## Crime And Disaster Scene Integrity

### 406.1 PURPOSE AND SCOPE

The protection and integrity of a crime scene is of the utmost importance for the successful apprehension of criminals and successful prosecution. The integrity of a disaster scene is equally as critical for the protection of life and property and investigation by proper authorities.

### 406.2 CRIME SCENE RESPONSIBILITY

The first officer at the scene of a crime or major incident is generally responsible for taking reasonable efforts to preserve the scene. Officers shall also consider officer safety and public safety, including reasonable efforts to render medical aid to any obviously injured parties. Once an officer has assumed or been assigned to maintain the integrity of the crime/disaster scene, the officer shall continue to do so until he/she is relieved by a supervisor.

#### 406.2.1 FIRST RESPONDER CONSIDERATIONS

The following list generally describes the functions which the first responder should reasonably attempt to take at a crime or disaster scene. This list is not intended to be all-inclusive, is not necessarily in order and may be altered according to the demands of each situation, the availability of resources, capacity of personnel and totality of each circumstance:

- (a) Ensure no suspects are still in the area.
- (b) Broadcast emergency information, including all requests for additional assistance.
- (c) Provide first aid to injured parties if it can be done safely.
- (d) Evacuate the location as required.
- (e) Secure the inner and outer perimeter if needed.
- (f) Protect items of apparent evidentiary value.
- (g) Identify potential witnesses.
- (h) Start a chronological log noting critical times and personnel allowed access.

#### 406.2.2 EXECUTION OF HEALTH ORDERS

Any sworn member of this department is authorized to enforce all orders of the local health officer that have been issued for the purpose of preventing the spread of any contagious, infectious or communicable disease (Health and Safety Code § 120155).

### 406.3 SEARCHES AT CRIME OR DISASTER SCENES

Officers arriving at crime or disaster scenes are often faced with the immediate need to search for and render aid to victims and determine if suspects are present and continue to pose a threat. Once officers are satisfied that no additional suspects are present and/or there are no injured persons to be treated, those exigent circumstances will likely no longer exist. Officers should thereafter secure the scene and conduct no further search until proper authority for the search is obtained.

## *Crime And Disaster Scene Integrity*

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### 406.3.1 CONSENT

Officers should seek consent to search from authorized individuals where possible. However, in the case of serious crimes or major investigations, it may be prudent to obtain a search warrant. Consent may be sought even in cases where a search warrant has been granted.

## Ride-Along Policy

### 410.1 PURPOSE AND SCOPE

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

#### 410.1.1 ELIGIBILITY

The Palo Alto Police Department Ride-Along Program is offered to residents, students and those employed within the City. Every attempt will be made to accommodate interested persons however any applicant may be disqualified without cause.

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

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

#### 410.1.2 AVAILABILITY

The Ride-Along Program is available on most days of the week, with certain exceptions. The ride-along times are from 10:00 a.m. to 11:00 p.m. Exceptions to this schedule may be made as approved by the Chief of Police, Division Captain, or Watch Commander.

### 410.2 PROCEDURE TO REQUEST A RIDE-ALONG

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

The Personnel and Training will schedule a date, based on availability, at least one week after the date of application. If approved, a copy will be forwarded to the respective Watch Commander as soon as possible for his/her scheduling considerations.

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

#### 410.2.1 PROGRAM REQUIREMENTS

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

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

Ride-along requirements for police cadets are covered in Policy Manual § 1048, "Police Cadet Program."

#### 410.2.2 SUITABLE ATTIRE

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

#### 410.2.3 PEACE OFFICER RIDE-ALONGS

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

#### 410.2.4 RIDE-ALONG CRIMINAL HISTORY CHECK

All Ride-along applicants are subject to a criminal history check. The criminal history check may include a local records check and a Department of Justice Automated Criminal History System check through CLETS prior to their approval as a ride-along with a law enforcement officer (provided that the ride-along is not an employee of the Palo Alto Police Department) (CLETS Policies, Practices and Procedures Manual § 1.6.1.D.3.).

### **410.3 OFFICER'S RESPONSIBILITY**

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

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

### **410.4 CONTROL OF RIDE-ALONG**

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

- (a) The ride-along will follow the directions of the officer

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- (b) The ride-along will not become involved in any investigation, handling of evidence, discussions with victims or suspects, or handling any police equipment
- (c) The ride-along may terminate the ride at any time and the officer may return the observer to their home or to the station if the ride-along interferes with the performance of the officer's duties
- (d) Ride-alongs may be allowed to continue riding during the transportation and booking process provided this does not jeopardize their safety
- (e) Officers will not allow any ride-alongs to be present in any residences or situations that would jeopardize their safety or cause undue stress or embarrassment to a victim or any other citizen
- (f) Under no circumstance shall a civilian ride along be permitted to enter a private residence with an officer without the expressed consent of the resident or other authorized person

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## Hazardous Material Response

### 412.1 PURPOSE AND SCOPE

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

#### 412.1.1 HAZARDOUS MATERIAL DEFINED

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

### 412.2 HAZARDOUS MATERIAL RESPONSE

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

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

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

### 412.3 REPORTING EXPOSURE(S)

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

## *Hazardous Material Response*

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

**Anthrax Exposure:** Santa Clara County Protocols Section 19 - Anthrax Exposure Protocol shall be utilized as a guideline when personnel respond to suspected anthrax exposure incident. All personnel are required to read and follow Santa Clara County Protocols Section 19 - Anthrax Exposure Protocol.

### 412.3.1 SUPERVISOR RESPONSIBILITY

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

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

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## Mental Illness Commitments

### 418.1 PURPOSE AND SCOPE

This policy provides guidelines for when officers may take a person into custody for psychiatric evaluation and treatment (5150 commitment) (Welfare and Institutions Code § 5150).

### 418.2 POLICY

It is the policy of the Palo Alto Police Department to protect the public and individuals through legal and appropriate use of the 72-hour treatment and evaluation commitment (5150 commitment) process.

### 418.3 AUTHORITY

An officer having probable cause may take a person into custody and place the person in an approved mental health facility for 72-hour treatment and evaluation when the officer believes that, as a result of a mental disorder, the person is a danger to him/herself or others or the person is gravely disabled (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5585.50).

#### 418.3.1 VOLUNTARY EVALUATION

If officers encounter an individual who may qualify for a 5150 commitment, they may inquire as to whether the person desires to voluntarily be evaluated at an appropriate facility. If the person so desires, the officers should:

- (a) Transport the person to an appropriate facility that is able to conduct the evaluation and admit the person pursuant to a 5150 commitment.
- (b) If at any point the person changes his/her mind regarding voluntary evaluation, officers should proceed with the 5150 commitment, if appropriate.
- (c) Document the circumstances surrounding the individual's desire to pursue voluntary evaluation and/or admission.

### 418.4 CONSIDERATIONS AND RESPONSIBILITIES

Any officer handling a call involving an individual who may qualify for a 5150 commitment should consider, as time and circumstances reasonably permit:

- (a) Available information that might assist in determining the cause and nature of the person's action or stated intentions.
- (b) Community or neighborhood mediation services.
- (c) Conflict resolution and de-escalation techniques.
- (d) Community or other resources available to assist in dealing with mental health issues.

While these steps are encouraged, nothing in this section is intended to dissuade officers from taking reasonable action to ensure the safety of the officers and others.



## *Mental Illness Commitments*

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Officers should consider a 5150 commitment over arrest when mental health issues appear to be a mitigating factor for people who are suspected of committing minor crimes or creating other public safety issues.

### **418.4.1 SECURING OF PROPERTY**

When a person is taken into custody for evaluation, or within a reasonable time thereafter, and unless a responsible relative, guardian or conservator is in possession of the person's personal property, the officer shall take reasonable precautions to safeguard the individual's personal property in his/her possession or on the premises occupied by the person (Welfare and Institutions Code § 5150).

The officer taking the person into custody shall provide a report to the court that describes the person's property and its disposition in the format provided in Welfare and Institutions Code § 5211, unless a responsible person took possession of the property, in which case the officer shall only include the name of the responsible person and the location of the property (Welfare and Institutions Code § 5150(e)).

### **418.5 TRANSPORTATION**

When transporting any individual for a 5150 commitment, the transporting officer should have the Communications Center notify the receiving facility of the estimated time of arrival, the level of cooperation of the individual and whether any special medical care is needed.

Officers may transport individuals in a patrol unit and shall secure them in accordance with the Handcuffing and Restraints Policy. Should the detainee require transport in a medical transport vehicle and the safety of any person, including the detainee, requires the presence of an officer during the transport, Watch Commander approval is required before transport commences.

### **418.6 TRANSFER TO APPROPRIATE FACILITY**

Upon arrival at the facility, the officer will escort the individual into a treatment area designated by a facility staff member. If the individual is not seeking treatment voluntarily, the officer should provide the staff member with the written application for 5150 commitment and remain present to provide clarification of the grounds for detention, upon request.

Absent exigent circumstances, the transporting officer should not assist facility staff with the admission process, including restraint of the individual. However, if the individual is transported and delivered while restrained, the officer may assist with transferring the individual to facility restraints and will be available to assist during the admission process, if requested. Under normal circumstances, officers will not apply facility-ordered restraints.

### **418.7 DOCUMENTATION**

The officer shall complete an Application for 72-Hour Detention for Evaluation and Treatment (MH-302), provide it to the facility staff member assigned to that patient and retain a copy of the 72-hour evaluation for inclusion in the case report.

## *Mental Illness Commitments*

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The officer should also provide a verbal summary to any evaluating staff member regarding the circumstances leading to the involuntary detention.

### **418.7.1 ADVISEMENT**

The officer shall read the detainment advisement on the application to the person being taken into custody or complete the statement of good cause for incomplete advisement, as appropriate (Welfare and Institutions Code § 5150). The advisement shall be given in a language the person understands. If the person cannot understand an oral advisement, the information shall be provided in writing.

### **418.8 CRIMINAL OFFENSES**

Officers investigating an individual who is suspected of committing a minor criminal offense and who is being taken on a 5150 commitment should resolve the criminal matter by issuing a warning or a Notice to Appear as appropriate.

When an individual who may qualify for a 5150 commitment has committed a serious criminal offense that would normally result in an arrest and transfer to a jail facility, the officer should:

- (a) Arrest the individual when there is probable cause to do so.
- (b) Notify the appropriate supervisor of the facts supporting the arrest and the facts that would support the 5150 commitment.
- (c) Facilitate the individual's transfer to jail.
- (d) Thoroughly document in the related reports the circumstances that indicate the individual may qualify for a 5150 commitment.

In the supervisor's judgment, the individual may be arrested or booked and transported to the appropriate mental health facility. The supervisor should consider the seriousness of the offense, the treatment options available, the ability of this department to regain custody of the individual, department resources (e.g., posting a guard) and other relevant factors in making this decision.

### **418.9 FIREARMS AND OTHER WEAPONS**

Whenever a person is taken into custody for a 5150 commitment, the handling officers should seek to determine if the person owns or has access to any firearm or other deadly weapon defined in Welfare and Institute § 8100. Officers should consider whether it is appropriate and consistent with current search and seizure law under the circumstances to seize any such firearms or other dangerous weapons (e.g. safekeeping, evidence, consent).

Officers are cautioned that a search warrant may be needed before seizing weapons or entering a residence or other place to search, unless lawful, warrantless entry has already been made (e.g., exigent circumstances, consent).

The handling officers shall issue a receipt describing the deadly weapon or any firearm seized, and list any serial number or other identification that is on the firearm. Officers shall advise the

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person of the procedure for the return of any firearm or other weapon that has been taken into custody (Welfare and Institutions Code § 8102 (b)) (see Property and Evidence Policy).

#### **418.9.1 PETITION FOR RETURN OF FIREARMS AND OTHER WEAPONS**

Whenever the handling officer has cause to believe that the future return of any confiscated weapon might endanger the person or others, the officer shall detail those facts and circumstances in a report. The report shall be forwarded to the Investigative Services, which shall be responsible for initiating a petition to the Superior Court for a hearing in accordance with Welfare and Institutions Code § 8102(c), to determine whether the weapon will be returned.

The petition to the Superior Court shall be initiated within 30 days of the release of the individual from whom such weapon has been confiscated, unless the Department makes an ex parte application to the court to extend the time to file such a petition, up to a maximum of 60 days. At the time any such petition is initiated, the Department shall send written notice to the individual informing him/her of the right to a hearing on the issue, that he/she has 30 days to confirm with the court clerk any desire for a hearing and that the failure to do so will result in the forfeiture of any confiscated weapon.

#### **418.10 TRAINING**

This department will endeavor to provide Peace Officer Standards and Training (POST)-approved advanced officer training on interaction with mentally disabled persons, 5150 commitments and crisis intervention.

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## Cite & Release Policy

### 420.1 PURPOSE AND SCOPE

Penal Code § 853.6 requires law enforcement agencies to use citation release procedures in lieu of arrest for misdemeanor offenses with certain exceptions. The State Legislature has shown the intent to release all persons on misdemeanor citations, if qualified for such release.

### 420.2 STATUTORY REQUIREMENTS

Citation releases are authorized by Penal Code § 853.6. Release by citation for misdemeanor offenses can be accomplished in two separate ways:

- (a) A field release is when the violator is released in the field without being transported to a jail facility.
- (b) A jail release is when a violator is released after being transported to the jail and booked.

#### 420.2.1 DISCRETION TO ARREST

While this department recognizes the statutory power of peace officers to make arrests throughout the state, officers are encouraged to use sound discretion in the enforcement of the law. On-duty arrests will not generally be made outside the jurisdiction of this department except in cases of hot and/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.

Off-duty officers observing criminal activity should generally take enforcement action only when it reasonably appears that imminent risk to life or property exists and the reasonable opportunity does not exist to contact the law enforcement agency with primary jurisdiction. In such situations the involved officer shall clearly identify him/herself as a police officer.

Officers are authorized to use verbal or written warnings to resolve minor traffic and criminal violations when appropriate.

### 420.3 DEPARTMENT PROCEDURE

The following procedure will be followed to comply with this law.

#### 420.3.1 FIELD CITATIONS

In most misdemeanor cases an arrestee 18 years or older may be released on citation provided the individual can be satisfactorily identified, there is no outstanding arrest warrant for the individual and none of the below described disqualifying circumstances are present (Penal Code § 853.6 and Penal Code § 1270.1).

#### 420.3.2 DISQUALIFYING CIRCUMSTANCES

A person arrested for a misdemeanor shall be released on a notice to appear unless one of the following situations is present (Penal Code § 853.6(i)):

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- (a) The person arrested is so intoxicated that he/she could be a danger to him/herself or to others. Release may occur as soon as this condition no longer exists.
- (b) The person arrested requires medical examination or medical care or is otherwise unable to care for his/her own safety
  - 1. The Palo Alto Police Department shall not release an arrestee from custody for the purpose of allowing that person to seek medical care at a hospital, and then immediately re-arrest the same individual upon discharge from the hospital, unless the hospital determines this action will enable it to bill and collect from a third-party payment source (Penal Code § 4011.10).
- (c) The person is arrested for one or more of the offenses listed in Vehicle Code §§ 40302, 40303 and 40305.
  - 1. Any person arrested for any offense listed in Vehicle Code § 40303(b) shall, in the judgment of the arresting officer, either be given a 10 day notice to appear or be taken without delay before a magistrate in the county of arrest.
  - 2. If a person under Vehicle Code §§ 40303 or 40305 does not have satisfactory identification, the officer may require the individual to provide a right thumbprint (or other finger). However such print may not be used for other than law enforcement purposes.
  - 3. Should any person arrested on a notice to appear claim under penalty of perjury not to be the person listed in the notice, such person may request that his/her thumbprint be taken for comparison at a fee not to exceed the actual cost of such service.
- (d) There are one or more outstanding arrest warrants for the person.
- (e) The person could not provide satisfactory evidence of personal identification.
- (f) The prosecution of the offense or offenses for which the person was arrested or the prosecution of any other offense or offenses would be jeopardized by the immediate release of the person arrested.
- (g) There is a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by the release of the person arrested.
- (h) The person arrested demands to be taken before a magistrate or has refused to sign the notice to appear.
- (i) There is reason to believe that the person would not appear at the time and place specified in the notice to appear. The basis for this determination shall be specifically documented.
- (j) The charges fall under Penal Code § 1270.1 (serious or violent felonies, domestic violence, etc.)

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When a person is arrested on a misdemeanor offense and is not released by criminal citation, the reason for non-release shall be noted on the booking form. This form shall be submitted to the Watch Commander for approval and included with the case file in the Technical Services Division.

### 420.3.3 OTHER REASONS FOR NON-RELEASE

If the person arrested is not released for one or more of the reasons specified in Policy Manual § 420.33, the Watch Commander shall state specifically on the booking form the reason for non-release. Such reasons for non-release may include:

- (a) Previous failure to appear is on record
- (b) The person lacks ties to the area, such as a residence, job, or family
- (c) Unusual circumstances lead the officer responsible for the release of prisoners to conclude that the suspect should be held for further investigation

### 420.3.4 INSTRUCTIONS TO CITED PERSON

The citing officer shall, at the time he/she asks the defendant to sign the notice to appear, call attention to the time and place for appearance and take any other steps he/she deems necessary to ensure that the defendant understands his/her written promise to appear.

## **420.4 CITATION RELEASE ON MISDEMEANOR WARRANTS**

Penal Code § 827.1 allows the release by citation of a person designated in a warrant of arrest unless one of the following conditions exist:

- (a) The misdemeanor cited in the warrant involves violence
- (b) The misdemeanor cited in the warrant involves a firearm
- (c) The misdemeanor cited in the warrant involves resisting arrest
- (d) The misdemeanor cited in the warrant involves giving false information to a peace officer
- (e) The person arrested is a danger to himself or herself or others due to intoxication or being under the influence of drugs or narcotics
- (f) The person requires medical examination or medical care or was otherwise unable to care for his or her own safety
- (g) The person has other ineligible charges pending against him/her
- (h) There is reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be immediately endangered by the release of the person
- (i) The person refuses to sign the notice to appear
- (j) The person cannot provide satisfactory evidence of personal identification
- (k) The warrant of arrest indicates that the person is not eligible to be released on a notice to appear

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Release under this section shall be done in accordance with the provisions of this section.

#### **420.4.1 NON FIELD RELEASE**

A subject arrested on a misdemeanor warrant with bail over \$5000.00 will not be released in the field, but will be booked into county jail.

#### **420.5 JUVENILE CITATIONS**

Completion of criminal citations for juveniles is generally not appropriate with the following exceptions:

- Misdemeanor traffic violations of the Vehicle Code
- Violations of Palo Alto Municipal Codes

All other misdemeanor violations for juveniles shall be documented on a Juvenile Contact Report with a case number and the case should be referred to the Investigative Services Division for further action including diversion.

Officers shall also follow the guidelines set forth in the Santa Clara County Protocols, Section 11 - Juvenile Detention Reform when issuing a citation to a juvenile.

#### **420.5.1 COMMUNITY ALTERNATIVES TO INCARCERATION**

Santa Clara County Protocols, Section 11 - Juvenile Detention Reform Law Enforcement Policy For The Incarceration of Juveniles shall be utilized as a guideline regarding the disposition of youthful offenders. See Policy 324 - Juvenile Procedures for further details.

#### **420.6 REQUESTING CASE NUMBERS**

Most cases involving a criminal citation release will require a case number. Traffic situations and local code violations can be documented on the reverse side of the records copy of the citation. Most Penal Code violations will require a case number to document the incident properly in a report. This section does not preclude an officer from requesting a case number if he/she feels the situation should be documented more thoroughly in a case report.

## Arrest or Detention of Foreign Nationals

### 422.1 PURPOSE AND SCOPE

Article 36 of the Vienna Convention on Consular Relations, sets forth certain rights of foreign nationals from member countries when arrested, detained or imprisoned by law enforcement officials in this country. This section provides direction to officers when considering a physical arrest or detention of a foreign national. All foreign service personnel shall be treated with respect and courtesy, regardless of the level of established immunity. As noted herein, the United States is a party to several bilateral agreements that obligate authorities to notify the consulate upon the person's detention, regardless of whether the detained person requests that his/her consulate be notified. The list of specific countries that the United States is obligated to notify is listed on the U.S. Department of State [website](#).

#### 422.1.1 DEFINITIONS

**Foreign National** - Anyone who is not a citizen of the United States (U.S.). A person with dual-citizenship, U.S. and foreign, is not a foreign national.

**Immunity** - Refers to various protections and privileges extended to the employees of foreign governments who are present in the U.S. as official representatives of their home governments. These privileges are embodied in international law and are intended to ensure the efficient and effective performance of their official #missions# (i.e., embassies, consulates, etc.) in foreign countries. Proper respect for the immunity to which an individual is entitled is necessary to ensure that U.S. diplomatic relations are not jeopardized and to maintain reciprocal treatment of U.S. personnel abroad. Although immunity may preclude U.S. courts from exercising jurisdiction, it is not intended to excuse unlawful activity. It is the policy of the U.S. Department of State's Office of Foreign Missions (OFM) that illegal acts by Foreign Service personnel should always be pursued through proper channels. Additionally, the host country's right to protect its citizens supersedes immunity privileges. Peace officers may intervene to the extent necessary to prevent the endangerment of public safety or the commission of a serious crime, regardless of immunity claims.

### 422.2 ARREST OR DETENTION OF FOREIGN NATIONALS

Officers should take appropriate enforcement action for all violations observed, regardless of claims of diplomatic or consular immunity received from violators. A person shall not, however, be subjected to in-custody arrest when diplomatic or consular immunity is claimed by the individual or suspected by the officer, and the officer has verified or reasonably suspects that the claim of immunity is valid.

### 422.3 LEVELS OF IMMUNITY

The specific degree of immunity afforded to foreign service personnel within the U.S. is directly related to their function and position in this country.



## *Arrest or Detention of Foreign Nationals*

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### 422.3.1 DIPLOMATIC AGENTS

Diplomatic agents (e.g., ambassadors and United Nations representatives) are afforded the highest levels of immunity. They are exempt from arrest or detention and are immune from all criminal (and most civil) prosecution by the host state. The family members of diplomatic agents enjoy these same immunities. Currently there are no diplomatic agents permanently assigned to California; but they do occasionally visit the state.

### 422.3.2 CONSULAR OFFICERS

Consular officers are the ranking members of consular posts who perform various formal functions on behalf of their own governments. Typical titles include consul general, consul, and vice consul. These officials are immune from arrest or detention, except pursuant to a felony warrant. They are only immune from criminal and civil prosecution arising from official acts. Official acts immunity must be raised as an affirmative defense in the court jurisdiction, and its validity is determined by the court. Under this defense, the prohibited act itself must have been performed as an official function. It is not sufficient that the consular agent was on-duty or in an official capacity at the time of the violation. The family members of consular officers generally enjoy no immunity, however, any family member who enjoys a higher level of immunity is issued an identification card by Department of State (DOS) enumerating any privileges or immunities on the back of the card. Examples are consular officers and family members from Russia or China.

There are approximately 600 consular officers in California, with most located in Los Angeles, San Francisco and San Diego.

### 422.3.3 HONORARY CONSULS

Honorary consuls are part-time employees of the country they represent and are either permanent residents of the U.S. or U.S. nationals (unlike career consular officers, who are foreign nationals on temporary assignment to the U.S.). Honorary consuls may be arrested and detained; limited immunity for official acts may be available as a subsequent defense. Family members have no immunity. There are less than 100 honorary consuls in California.

## **422.4 IDENTIFICATION**

All diplomatic and consular personnel who are entitled to immunity are registered with the Department of State and are issued distinctive identification cards by the Department of State Protocol Office. These cards are the best means of identifying Foreign Service personnel. They include a photograph, identifying information, and, on the reverse side, a brief description of the bearer's immunity status. Unfortunately, these identification cards are not always promptly issued by the Department of State. In addition to the Department of State identification card, Foreign Service personnel should also have a driver license issued by the Department of State Diplomatic Motor Vehicle Office (DMVO), which in most circumstances replaces the operator's license issued by the state. Additionally they may have California credentials issued by the California Governor's Office of Emergency Services (Cal OES).

## *Arrest or Detention of Foreign Nationals*

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### 422.4.1 VEHICLE REGISTRATION

Vehicles that are owned by foreign missions or Foreign Service personnel and their dependents are registered with the Department of State OFM and display distinctive red, white, and blue license plates. Vehicles assigned to diplomatic or consular officers will generally have license plates labels with the words #diplomat# or #consul.# Vehicles owned by honorary consuls are not issued OFM license plates; but may have California license plates with an #honorary consul# label. Driver's identity or immunity status should not be presumed from the type of license plates displayed on the vehicle. The status of an OFM license plate should be run via the National Law Enforcement Telecommunications System (NLETS), designating #US# as the state, if the officer has reason to question the legitimate possession of the license plate.

### **422.5 ENFORCEMENT PROCEDURES**

The following procedures provide a guideline for handling enforcement of foreign nationals:

#### 422.5.1 CITABLE OFFENSES

An enforcement document shall be issued at the scene for all violations warranting such action, regardless of the violator's immunity status. The issuance of a citation is not considered an arrest or detention under current Department of State guidelines. Whenever the equivalent of a notice to appear is issued to an immunity claimant, the following additional procedures shall be followed by the arresting officer:

- (a) Identification documents are to be requested of the claimant
- (b) The title and country represented by the claimant are to be recorded on the back of the officer's copy of the Notice to Appear for later reference. Do not include on the face of the notice to appear
- (c) The claimant shall be requested to sign the notice to appear. If the claimant refuses, the identity and immunity status of the individual shall be conclusively established
- (d) Verified diplomatic agents and consular officers, including staff and family members from countries with which the U.S. has special agreements, are not required to sign the Notice to Appear. The word #Refused# shall be entered in the signature box, and the violator shall be released
- (e) Verified consular staff members, excluding those from countries with which the U.S. has special agreements, are generally obligated to sign the Notice to Appear, but a signature shall not be required if their immunity status is uncertain
- (f) All other claimants are subject to the provisions of Vehicle Code § 40302(b) and policy and procedures outlined in this chapter
- (g) The violator shall be provided with the appropriate copy of the notice to appear

#### 422.5.2 IN-CUSTODY ARRESTS

Diplomatic agents and consular officers are immune from arrest or detention (unless they have no identification and the detention is to verify their diplomatic status). Proper identification of

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## Policy Manual

### *Arrest or Detention of Foreign Nationals*

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immunity claimants is imperative in potential in-custody situations. Claimants who are not entitled to immunity shall be placed in custody in accordance with the provisions outlined in Policy Manual § 422.6 of this policy.

A subject who is placed under arrest and claims diplomatic or consular immunity shall not be physically restrained before verification of the claim (unless restraint is necessary for the protection of the officer or others.)

A supervisor shall be promptly notified and should respond to the scene when possible.

Field verification of the claimant's identity is to be attempted as follows:

- (a) Identification cards issued by the Department of State, Protocol Office, are the only valid evidence of diplomatic or consular immunity. The following types of identification cards are issued: Diplomatic (blue bordered), Consular (red bordered), and Official (green bordered), The Department of State identification cards are 3-3/4 inch by 1-1/2 inch and contain a photograph of the bearer.
- (b) Initiate telephone verification with the Department of State. Newly arrived members of diplomatic or consular missions may not yet have official Department of State identity documents. Verify immunity by telephone with the Department of State any time an individual claims immunity and cannot present satisfactory identification, the officer has reason to doubt the claim of immunity, or there is a possibility of physical arrest. Law enforcement personnel should use the following numbers in order of preference:

Office of Foreign Missions	Office of the Foreign Missions
San Francisco, CA	Los Angeles, CA
(415) 744-2910, Ext. 22 or 23	(310) 235-6292, Ext. 121 or 122
(415) 744-2913 FAX	(310) 235-6297 FAX
(0800-1700 PST)	(0800-1700 PST)
Office of Foreign Missions	Department of State
Diplomatic Motor Vehicle Office	Diplomatic Security Service
Washington D.C.	Command Center
(202) 895-3521 (Driver License Verification) or	Washington D.C.
(202) 895-3532 (Registration Verification)	(202) 647-7277
(202) 895-3533 FAX	(202) 647-1512
(0815-1700 EST)	(Available 24 hours)
	(202) 647-0122 FAX

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### *Arrest or Detention of Foreign Nationals*

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Members of diplomatic or consular missions also may have other forms of identification. These include identification cards issued by Cal OES, local law enforcement agencies, the foreign embassy, or consulate; driver licenses issued by Department of State; and, Department of State license indicia on the vehicle. All these items are only an indication that the bearer may have some form of immunity.

Subjects verified through the above procedures as being officials entitled to immunity (diplomatic agent, consular officers and consular staff and family members from countries with which the U.S. has special agreements) may not be arrested. The procedures below shall be followed. These procedures should also be used in the event immunity cannot be verified, but another form of identification indicates that immunity is probable.

If the release of the violator will not create an additional hazard, adequate information to properly identify the violator shall be obtained then the official shall be released. A supervisor's approval for the release shall be obtained whenever possible. The necessary release documents and/or a Certificate of Release form should only be issued under the proper conditions.

If the violator appears to have been driving while under the influence, field sobriety tests, including Preliminary Alcohol Screening (PAS) device tests and chemical tests should be offered and obtained whenever possible, however, these tests cannot be compelled. The subject shall not be permitted to drive. A supervisor's approval for release shall be obtained whenever possible and alternative transportation should be arranged.

All facts of the incident shall be documented in accordance with this policy in a Driving Under the Influence (DUI) Arrest-Investigation Report, Arrest-Investigation Report and/or any other relevant Report form. Notwithstanding the field release of the subject, prosecution is still appropriate and should be pursued by the command concerned. The Department of State will take appropriate sanctions against errant foreign service personnel, even where prosecution is not undertaken by the agency.

#### **422.6 TRAFFIC COLLISIONS**

Persons involved in traffic collisions who possess a Department of State OFM Diplomatic Driver License, issued by the DMVO, shall have #D# coded in the license #class# box of the Traffic Collision Report. The actual driver license class (e.g., 1, 2, 3, or A, B, C, M) shall be entered in the miscellaneous box on page two of the traffic report. If subsequent prosecution of the claimant is anticipated, the claimant's title, country, and type of identification presented should be recorded for future reference. Issuance of a citation to, or arrest of, an immunity claimant at the accident scene should be handled in accordance with the procedures specified in Policy Manual § 422.5 of this chapter.

##### **422.6.1 VEHICLES**

Vehicles, which are owned by subjects with full immunity, may not be searched, stored, or impounded without the owner's permission. (Such permission may be assumed if the vehicle has been stolen.) These vehicles may, however, be towed the necessary distance to remove them from obstructing traffic or creating any other hazard.

## *Arrest or Detention of Foreign Nationals*

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### 422.6.2 REPORTS

A photocopy of each traffic collision report involving an identified diplomat and/or immunity claimant shall be forwarded to the office of the Chief of Police within 48 hours whether or not the claim is verified. The words #Immunity Claim# shall be marked on the photocopy, together with a notation of the claimant's title, country, and type of identification presented (if applicable). In addition to the report, a follow-up cover memorandum should be submitted if the violation was flagrant, if the claimant was uncooperative, or if there were any other unusual aspects of the enforcement contact that should be reported to the Department of State for further action. The Watch Commander/Supervisor apprised of the incident/accident shall also send a copy of all documents and reports submitted by the investigating officer along with any supervisor's notes, materials and/or logs to the Chief of Police's office within 48 hours of the incident. The Chief of Police's office will check to ensure that notification of Department of State and all necessary follow-up occur.

### **422.7 FOREIGN NATIONALS WHO DO NOT CLAIM IMMUNITY**

These policies and procedures apply to foreign nationals who do not claim diplomatic or consular immunity.

Officers shall arrest foreign nationals only under the following circumstances:

- (a) There is a valid warrant issued for the person's arrest
- (b) There is probable cause to believe that the foreign national has violated a federal criminal law, a state law, or a local ordinance
- (c) Officers shall not arrest foreign nationals solely for alleged undocumented entry into the U.S. unless the undocumented entry is committed in the officer's presence

After a lawful detention or criminal arrest, officers may detain foreign nationals solely for alleged undocumented presence in the U.S. if the U.S. Immigration and Customs Enforcement (ICE) is contacted and can respond to take custody within a reasonable time. Officers shall not arrest foreign nationals for undocumented presence. Federal courts have consistently held that undocumented presence is not a crime but a federal civil violation only enforceable by federal officers.

- Officers shall not stop or detain persons solely for determining immigration status.
- International treaty obligations provide for notification of foreign governments when foreign nationals are arrested or otherwise detained in the U.S.
- Whenever an officer arrests and incarcerates a foreign national or detains a foreign national for investigation for over two hours, the officer shall promptly advise the individual that he/she is entitled to have his/her government notified of the arrest or detention. (Penal Code § 834c). If the individual wants his/her government notified, the officer shall begin the notification process.

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### *Arrest or Detention of Foreign Nationals*

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#### 422.7.1 ARREST PROCEDURE

Whenever an officer physically arrests or detains an individual for criminal investigation and the officer reasonably believes the person to be a foreign national, the officer shall inquire to determine the person's citizenship.

This procedure applies to detentions of more than two hours. An inquiry is not required if the individual is detained less than two hours for criminal investigation.

If the individual indicates that he/she is other than a U.S. citizen, the officer shall advise the individual that he/she has a right to have the nearest appropriate embassy or consulate notified of the arrest/detention (Vienna Convention on Consular Relations, Art. 36, (1969)).

If the individual requests such notification, the officer shall contact the Communications Center as soon as practical and request the appropriate embassy/consulate be notified. Officers shall provide the Communications Center with the following information concerning the individual:

- Country of citizenship
- Full name of individual, including paternal and maternal surname, if used
- Date of birth or age
- Current residence
- Time, date, place, location of incarceration/detention and the 24-hour telephone number of the place of detention if different from the Department itself

If the individual claims citizenship of one of the countries for which notification of the consulate/embassy is mandatory, officers shall provide the Communications Center with the information above as soon as practicable, regardless of whether the individual desires that the embassy/consulate be notified. This procedure is critical because of treaty obligations with the particular countries. The list of countries and jurisdictions that require notification can be found on the U.S. Department of State website.

#### 422.7.2 DOCUMENTATION

Officers shall document on the face page and in the narrative of the appropriate Arrest-Investigation Report the date and time the Communications Center was notified of the foreign national's arrest/detention and his/her claimed nationality.

## Reporting Police Activity Outside of Jurisdiction

### 426.1 PURPOSE AND SCOPE

This policy provides general guidelines for reporting police activity while on or off-duty and occurring outside the jurisdiction of the Palo Alto Police Department.

#### 426.1.1 ASSISTANCE TO AGENCIES OUTSIDE THE CITY

When an officer is on-duty and is requested by an allied agency to participate in law enforcement activity in another jurisdiction, he/she shall obtain prior approval from the immediate supervisor or the Watch Commander. If the request is of an emergency nature, the officer shall notify the Communications Center before responding and thereafter notify a supervisor as soon as practical.

#### 426.1.2 LAW ENFORCEMENT ACTIVITY OUTSIDE THE CITY

Any on-duty officer, who engages in law enforcement activities of any type outside the immediate jurisdiction of the Palo Alto shall notify his or her supervisor or the Watch Commander at the earliest possible opportunity. Any off-duty officer who engages in any law enforcement activities, regardless of jurisdiction shall notify the Watch Commander as soon as practical.

The supervisor shall determine if a case report or other documentation of the officer's activity is required. The report or other documentation shall be forwarded to the officer's Division Captain.

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## Immigration Violations

### 428.1 PURPOSE AND SCOPE

The immigration status of individuals alone is generally not a matter for police action. It is incumbent upon all employees of this department to make a personal commitment to equal enforcement of the law and equal service to the public regardless of immigration status. Confidence in this commitment will increase the effectiveness of the Department in protecting and serving the entire community.

### 428.2 DEPARTMENT POLICY

The U.S. Immigration and Customs Enforcement (ICE) has primary jurisdiction for enforcement of the provisions of Title 8, United States Code dealing with illegal entry.

When assisting ICE at its specific request, or when suspected criminal violations are discovered as a result of inquiry or investigation based on probable cause originating from activities other than the isolated violations of 8 USC § 1304; 8 USC § 1324; 8 USC § 1325 and 8 USC § 1326, this department may assist in the enforcement of federal immigration laws.

### 428.3 PROCEDURES FOR IMMIGRATION COMPLAINTS

Persons wishing to report immigration violations should be referred to the local office of the U.S. Immigration and Customs Enforcement (ICE). The Employer Sanction Unit of ICE has primary jurisdiction for enforcement of Title 8, United States Code.

#### 428.3.1 BASIS FOR CONTACT

Unless immigration status is relevant to another criminal offense or investigation (e.g., harboring, smuggling, terrorism), the fact that an individual is suspected of being an undocumented alien shall not be the sole basis for contact, detention, or arrest.

#### 428.3.2 SWEEPS

The Palo Alto Police Department does not independently conduct sweeps or other concentrated efforts to detain suspected undocumented aliens.

When enforcement efforts are increased in a particular area, equal consideration should be given to all suspected violations and not just those affecting a particular race, ethnicity, age, gender, sexual orientation, religion, socioeconomic status or other group.

The disposition of each contact (e.g., warning, citation, arrest), while discretionary in each case, should not be affected by such factors as race, ethnicity, age, gender, sexual orientation, religion or socioeconomic status.

#### 428.3.3 ICE REQUEST FOR ASSISTANCE

If a specific request is made by ICE or any other federal agency, this department will provide available support services, such as traffic control or keep-the-peace efforts, during the federal operation.



## *Immigration Violations*

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Members of this department will not participate in such ICE operations as part of any detention team unless it is in direct response to a request for assistance for officer safety. Any detention by a member of this department should be based upon the reasonable belief that an individual is involved in criminal activity other than immigration status.

### 428.3.4 IDENTIFICATION

Whenever any individual is reasonably suspected of a criminal violation (infraction, misdemeanor or felony), the investigating officer should take reasonable steps to determine the person's identity through valid identification or other reliable sources.

If an individual would have otherwise been released for an infraction or misdemeanor on a citation, the person should be taken to the station and given a reasonable opportunity to verify his/her true identity (e.g., telephone calls). If the person's identity is thereafter reasonably established, the original citation release should be completed without consideration of immigration status.

### 428.3.5 ARREST

If the officer intends to take enforcement action and the individual is unable to reasonably establish his/her true identity, the officer may take the person into custody on the suspected criminal violation (see Vehicle Code § 40302(a) and Penal Code § 836, if pertinent to the circumstances). A field supervisor shall approve all such arrests.

### 428.3.6 BOOKING

If the officer is unable to reasonably establish an arrestee's identity, the individual may, upon approval of a supervisor, be booked into jail for the suspected criminal violation and held for bail.

A person detained exclusively pursuant to the authority of Vehicle Code § 40302(a) for any Vehicle Code infraction or misdemeanor shall not be detained beyond two hours for the purpose of establishing his/her true identity. Regardless of the status of that person's identity at the expiration of two hours, he/she shall be released on his/her signature with a promise to appear in court for the Vehicle Code infraction or misdemeanor involved.

## **428.4 CONSIDERATIONS PRIOR TO REPORTING TO ICE**

The Palo Alto Police Department is concerned for the safety of local citizens and thus detection of criminal behavior is of primary interest in dealing with any person. The decision to arrest shall be based upon those factors which establish probable cause and not on arbitrary aspects. Race, ethnicity, age, gender, sexual orientation, religion, and socioeconomic status alone are of no bearing on the decision to arrest.

All individuals, regardless of their immigration status, must feel secure that contacting law enforcement will not make them vulnerable to deportation. Members should not attempt to determine the immigration status of crime victims and witnesses or take enforcement action against them absent exigent circumstances or reasonable cause to believe that a crime victim or witness is involved in violating criminal laws. Generally, if an officer suspects that a victim or witness is an undocumented immigrant, the officer need not report the person to ICE unless circumstances indicate such reporting is reasonably necessary.

## *Immigration Violations*

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Nothing in this policy is intended to restrict officers from exchanging legitimate law enforcement information with any other federal, state or local government entity (8 USC § 1373; 8 USC § 1644).

### 428.4.1 U-VISA/T-VISA NONIMMIGRANT STATUS

Under certain circumstances, federal law allows temporary immigration benefits to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U); 8 USC § 1101(a)(15)(T)). A declaration/certification for a U-Visa/T-Visa from the U.S. Citizenship and Immigration Services may be completed on the appropriate U.S. DHS Form supplements (I-918 or I-914) by law enforcement and must include information on how the individual can assist in a criminal investigation or prosecution in order for a U-Visa/T-Visa to be issued.

Officers shall follow the guidelines set forth in the Santa Clara County Protocols Section 22 - Handling UVISA Certification Requests For Law Enforcement when a request to certify or recertify a UVISA is received. Personnel are required to read and follow the Santa Clara County Protocols Section 22 - Handling UVISA Certification Requests For Law Enforcement.

### 428.4.2 HUMAN TRAFFICKING T-VISA

Officers and their supervisors who are assigned to investigate a case of human trafficking shall complete the above process and documents needed for a T-Visa application within 15 business days of the first encounter with the victim, whether or not it is requested by the victim (Penal Code § 236.5).

Officers shall follow the guidelines set forth in the Santa Clara County Protocols Section 17 - Human Trafficking Protocol For Law Enforcement, Subsection IV. Victim Assistance, for additional guidelines regarding T-Visas.

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## Emergency Utility Service

### 430.1 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.

#### 430.1.1 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.

#### 430.1.2 ELECTRICAL LINES

City Public Works maintains 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. Public Works should be promptly notified, as appropriate.

#### 430.1.3 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.

#### 430.1.4 EMERGENCY NUMBERS

A current list of emergency personnel who are to be called for municipal utility emergencies is maintained by the Communications Center.

### 430.2 TRAFFIC SIGNAL MAINTENANCE

Public Works furnishes maintenance for all traffic signals within the City, other than those maintained by the State of California.

#### 430.2.1 OFFICER'S RESPONSIBILITY

Upon observing a damaged or malfunctioning signal, the officer will advise the the Communications Center of the location and problem with the signal. The dispatcher should make the necessary notification to the proper maintenance agency.

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## Aircraft Accidents

### 434.1 PURPOSE AND SCOPE

This policy describes situations involving aircraft accidents including responsibilities of personnel, making proper notification, and documentation.

### 434.2 RESPONSIBILITIES

In the event of an aircraft crash the employee responsibilities are as follows:

#### 434.2.1 OFFICER RESPONSIBILITY

Officers should treat an aircraft crash site as a crime scene until it is determined that such is not the case. If a military aircraft is involved, additional dangers, such as live ordnance or hazardous materials, may be present. The scene may require additional security due to the potential presence of confidential equipment or information.

The duties of the field officer at the scene of an aircraft accident include the following:

- (a) Determine the nature and extent of the accident.
- (b) Request additional personnel and other resources to respond as needed.
- (c) Provide assistance for the injured parties until the arrival of Fire Department personnel and/or other emergency personnel.
- (d) Cordon off and contain the area to exclude unauthorized individuals as soon as practicable.
- (e) Provide crowd control and other assistance until directed otherwise by a supervisor.
- (f) Ensure the Coroner's office is notified if a death occurs.

Entering an aircraft or tampering with parts or debris is only permissible for the purpose of removing injured or trapped occupants, protecting the wreckage from further damage or protecting the public from danger. If possible, the investigating authority should first be consulted before entering or moving any aircraft or any crash debris. Photographs or sketches of the original positions should be made whenever feasible.

The Fire Department will be responsible for control of the accident scene until the injured parties are cared for and the accident scene has been rendered safe for containment. Thereafter, police personnel will be responsible for preserving the scene until relieved by the investigating authority.

Once the scene is relinquished to the investigating authority, personnel from this agency may assist in containment of the scene until the investigation is completed or assistance is no longer needed.

An airport service worker or the airport manager may respond to the scene to assist the on-scene commander with technical expertise, should it be needed during the operation.

## *Aircraft Accidents*

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### 434.2.2 NATIONAL TRANSPORTATION SAFETY BOARD

The National Transportation Safety Board (NTSB) has the primary responsibility for investigating accidents involving civil aircraft. In the case of a military aircraft incident, the appropriate branch of the military will be involved in the investigation. The NTSB is concerned with several aspects of a crash as described in this section.

Every effort should be made to preserve the scene to the extent possible in the condition in which it was found until such time as NTSB or other authorized personnel arrive to take charge of the scene.

Military personnel will respond to take charge of any military aircraft involved, whether or not injuries or deaths have occurred.

If the accident did not result in a death or injury and the NTSB elects not to respond, the pilot or owner may assume control of the aircraft.

Removal of the wreckage shall be done under the guidance of the NTSB or military authorities or, if the NTSB is not responding for an on-site investigation, at the discretion of the pilot or the owner.

### 434.2.3 THE COMMUNICATIONS CENTER RESPONSIBILITIES

Dispatchers are responsible to make notifications as directed 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. Generally, the dispatcher will need to notify the following agencies or individuals when an aircraft accident has occurred.

- (a) Fire Department
- (b) The affected airport tower
- (c) Closest military base if a military aircraft is involved
- (d) Ambulances or other assistance as required

When an aircraft accident is reported to the Police Department by the airport tower personnel the dispatcher receiving such information should verify that the tower personnel will contact the Federal Aviation Administration (FAA) Flight Standards District Office and the National Transportation Safety Board (NTSB). In the event that airport personnel are not involved, the dispatcher should notify the FAA and the NTSB.

### 434.2.4 RECORDS MANAGER RESPONSIBILITIES

The Records Manager is responsible for the following:

- (a) Forward and maintain an approved copy of the accident report to the California Department of Aeronautics
- (b) Forward a copy of the report to the Field Services Division Captain and the manager of the affected airport

## *Aircraft Accidents*

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### 434.2.5 PRESS INFORMATION OFFICER RESPONSIBILITIES

The Department Press Information Officer is responsible for the following:

- (a) Obtain information for a press release from the on-scene commander or his or her designee
- (b) When practical, the Department Press Information Officer should coordinate with the FAA Press Information Officer to prepare a press release for distribution to the Media

Information released to the press regarding any aircraft accident should be handled by the Department Press Information Officer or in accordance with existing policy.

### 434.3 DOCUMENTATION

Any aircraft accident (crash) within the City, regardless of whether injuries or deaths occur, shall be documented.

### 434.4 AIRBORNE AIRCRAFT IN-FLIGHT EMERGENCY

#### 434.4.1 PURPOSE AND SCOPE

It is the policy of this Department to make every reasonable effort to assist a wireless 911 caller reporting an in-flight emergency on an aircraft, and to notify the appropriate authorities of the circumstances. The need to act quickly is obvious; if there is a hijacking in progress, the federal and state authorities will need to take immediate action to mitigate or eliminate the threat posed by the in-flight emergency.

Three things need to happen:

- (a) Identify the flight and direction of the aircraft;
- (b) Determine the nature of the emergency;
- (c) Notify the appropriate authorities

#### 434.4.2 PROCEDURE

If the City of Palo Alto Communications Center receives a call from a passenger or crewmember onboard an airborne aircraft, reporting a hijacking or other violent potential terrorist event, the call taker needs to secure as much information as possible. Simultaneously, federal authorities must be notified, so a second dispatcher needs to immediately notify NORAD, (phone number is in CAD phone files). The dispatcher should announce themselves as a 911 dispatcher. A separate notification should be made to the Transportation Security Administrative Services (TSA) at 703-563-3240.

The call taker should attempt to determine the following information:

- (a) The caller's name, seat number, cellular telephone number and if possible the home telephone number.
- (b) The flight information, including the name of the airline (United, Delta, etc.), the flight number, the departure City and the destination City.

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- (c) The intent of the persons who have taken control of the aircraft or have interfered with the flight crew and if the suspects taken control of the cockpit?
- (d) If the aircraft is being used as a bomb/missile, does the caller know the possible target?
- (e) Stay on the phone with the caller as long as possible, use normal caller interrogation technique questions to keep them calm and to determine the number of suspects, descriptions, weapons, etc. Convey all known information to NORAD.
- (f) Continue with secondary questioning by having the caller be very specific with what has happened or is happening, including the number of persons involved; any indication of weapons (hand held or bombs); are there any individual hostages; has there been any violence?
- (g) Inform the caller that federal authorities have been notified. The dispatcher who has contacted NORAD should ask if they would like to conference into the call with the person on the aircraft. If you are going to conference the caller, let them know who they will be talking to at NORAD and why.
- (h) If the call is disconnected, make all efforts to re-contact them by telephone.
- (i) Keep NORAD, FAA and CALWAS informed of the current situation.

Another circumstance that would lead to using the NORAD number is the report of a suspicious airborne object. A suspicious airborne object would NOT include noise complaints about aircraft.

Below is an outline of the information NORAD would need for both circumstances:

#### **Airborne Object**

Name and Phone # of RP

Location of RP

Direction the object is flying

Altitude of the object

Speed of the object

Other descriptors

#### **Aircraft Passenger Call**

Name and Phone # of RP

Airline the RP is on

Destination Airport

Departure Airport

Time departed

Flight Number

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## Field Training Officer Program

### 436.1 PURPOSE AND SCOPE

The Field Training Officer Program is intended to provide a standardized program to facilitate the officer's transition from the academic setting to the actual performance of general law enforcement duties of the Palo Alto Police Department.

It is the policy of this department to assign all new police officers to a structured Field Training Officer Program that is designed to prepare the new officer to perform in a patrol assignment, and possessing all skills needed to operate in a safe, productive and professional manner.

### 436.2 FIELD TRAINING OFFICER - SELECTION AND TRAINING

The Field Training Officer (FTO) is an experienced officer trained in the art of supervising, training and evaluating entry level and lateral police officers in the application of their previously acquired knowledge and skills.

#### 436.2.1 SELECTION PROCESS

FTO's will be selected based on the following requirements:

- (a) Desire to be an FTO
- (b) Minimum of three years of patrol experience, two of which shall be with this department
- (c) Demonstrated ability as a positive role model
- (d) Participate and pass an internal oral interview selection process
- (e) Evaluation by supervisors and current Field Training Sergeants
- (f) Possess a POST Basic certificate

#### 436.2.2 TRAINING

An officer selected as a Field Training Officer shall successfully complete a POST certified (40-hour) Field Training Officer's Course prior to being assigned as an FTO.

All FTOs must complete a 24-hour Field Training Officer update course every three years while assigned to the position of FTO.

### 436.3 FIELD TRAINING OFFICER PROGRAM SUPERVISOR

The FTO Program supervisor should be selected from the rank of sergeant or above by the Field Services Division Captain or a designee and should possess, or be eligible to receive, a POST Supervisory Certificate.

The responsibilities of the FTO Program supervisor include the following:

- (a) Assignment of trainees to FTOs
- (b) Conduct FTO meetings



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- (c) Maintain and ensure FTO/trainee performance evaluations are completed
- (d) Maintain, update and issue the Field Training Manual to each trainee
- (e) Monitor individual FTO performance
- (f) Monitor overall FTO Program
- (g) Maintain liaison with FTO coordinators of other agencies
- (h) Maintain liaison with academy staff on recruit performance during the academy
- (i) Develop ongoing training for FTOs

The FTO Program supervisor will be required to successfully complete a POST approved Field Training Administrator's Course within one year of appointment to this position (11 CCR § 1004(c)).

#### **436.4 TRAINEE DEFINED**

Any entry level or lateral police officer newly appointed to the Palo Alto Police Department who has successfully completed a POST approved Basic Academy.

#### **436.5 REQUIRED TRAINING**

Entry level officers shall be required to successfully complete the Field Training Program, consisting of a minimum of 10 weeks.

The training period for a lateral officer may be modified depending on the trainee's demonstrated performance and level of experience, but shall consist of a minimum of eight weeks.

To the extent practicable, entry level and lateral officers should be assigned to a variety of Field Training Officers, shifts and geographical areas during their Field Training Program.

##### **436.5.1 FIELD TRAINING MANUAL**

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

The Field Training Manual will specifically cover those policies, procedures, rules and regulations adopted by the Palo Alto Police Department.

#### **436.6 EVALUATIONS**

Evaluations are an important component of the training process and shall be completed as outlined below.

##### **436.6.1 FIELD TRAINING OFFICER**

The FTO will be responsible for the following:

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- (a) Complete and submit a written evaluation on the performance of his/her assigned trainee to the FTO Coordinator on a daily basis.
- (b) Review the Daily Trainee Performance Evaluations with the trainee each day.
- (c) Complete a detailed end-of-phase performance evaluation on his/her assigned trainee at the end of each phase of training.
- (d) Sign off all completed topics contained in the Field Training Manual, noting the method(s) of learning and evaluating the performance of his/her assigned trainee.

### 436.6.2 IMMEDIATE SUPERVISOR

The immediate supervisor shall review and approve the Daily Observation Reports and Bi-weekly evaluations for each trainee and forward them to the Field Training Administrator.

### 436.6.3 FIELD TRAINING ADMINISTRATOR

The Field Training Administrator will review and approve the Daily Observation Reports and bi-weekly evaluations for each trainee submitted by the FTO through his/her immediate supervisor.

### 436.6.4 TRAINEE

At the completion of the Field Training Program, the trainee shall submit a confidential performance evaluation on each of their FTOs and on the Field Training Program.

## **436.7 DOCUMENTATION**

All documentation of the Field Training Program will be retained in the trainee's training files and will consist of the following:

- (a) Daily Observation Reports (DOR)
- (b) Bi-weekly evaluations signed by the trainee and FTO
- (c) End of phase evaluations
- (d) A Certificate of Completion certifying that the trainee has successfully completed the required number of hours of field training
- (e) A memorandum from a FTO Sergeant to the trainee and trainee's permanent (post FTO) sergeant, outlining the trainees strengths and weaknesses as well as certifying his/her successful completion of the FTO program. This memorandum may act as a substitute to the certificate of completion (mentioned above); however, the Certificate of Completion shall NOT substitute this mandatory memorandum. This memo shall also be reviewed and signed by the FTO Lieutenant, Field Services Division Captain and the Chief of Police.
- (f) Once a trainee has completed the FTO Program, all documentation will be forwarded to the Personnel and Training Division.

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## Obtaining Air Support

### 438.1 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.

### 438.2 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.

#### 438.2.1 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.

#### 438.2.2 CIRCUMSTANCES UNDER WHICH AID MAY BE REQUESTED

Police helicopters may be requested under any of the following conditions:

- (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
- (d) 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
- (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.

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# Field Interviews & Photographing of Field Detainees

## 440.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for conducting field interviews (FI) and pat-down searches, and the taking and retention of photographs of persons detained in the field but not arrested. Due to a variety of situations confronting the officer, the decision to FI or photograph a field detainee shall be left to the discretion of the involved officer based on the totality of the circumstances available to them at the time of the detention.

## 440.2 DEFINITIONS

**Detention** - Occurs when an officer intentionally, through words, actions or physical force causes an individual to reasonably believe he/she is being required to restrict his/her movement. Detentions also occur when an officer actually restrains a person's freedom of movement.

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

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

**Field Photographs** - Field photographs are defined as posed photographs taken of a person during a contact, detention, or arrest in the field. Undercover surveillance photographs of an individual and recordings captured by the normal operation of a Mobile Audio Video (MAV) system when persons are not posed for the purpose of photographing are not considered field photographs.

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

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

## 440.3 FIELD INTERVIEWS

Officers may stop individuals for the purpose of conducting an FI where reasonable suspicion is present. In justifying the stop, the officer should be able to point to specific facts which, when taken together with rational inferences, reasonably warrant the stop. Such facts include, but are not limited to, the following:

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- (a) The appearance or demeanor of an individual suggests that he/she is part of a criminal enterprise or is engaged in a criminal act.
- (b) The actions of the suspect suggest that he/she is engaged in a criminal activity.
- (c) The hour of day or night is inappropriate for the suspect's presence in the area.
- (d) The suspect's presence in the particular area is suspicious.
- (e) The suspect is carrying a suspicious object.
- (f) The suspect's clothing bulges in a manner that suggests he/she is carrying a weapon.
- (g) The suspect is located in proximate time and place to an alleged crime.
- (h) The officer has knowledge of the suspect's prior criminal record or involvement in criminal activity.

#### 440.3.1 INITIATING A FIELD INTERVIEW

An officer may initiate the stop of a person when there is articulable, reasonable suspicion to do so. A person however, should not be detained longer than is reasonably necessary to resolve the officer's suspicions.

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

#### 440.3.2 WITNESS IDENTIFICATION AND INTERVIEWS

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

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

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#### **440.3.3 FIELD INTERVIEW CARDS**

It is the policy of the Palo Alto Police Department to record all information relevant to the identity of suspicious persons who have been interviewed and released by an officer in the field. The detention and recording of personal information of those persons deemed "suspicious" shall take place only when due consideration is given to legal statutes, case law, and individual rights.

A Field Interview Card (F.I. Card) shall be completed when an officer is not certain that the suspicious actions of the person being interviewed are legitimate. The following procedures shall be adhered to in the completion, review and retention of F.I. cards:

All completed F.I. cards shall be reviewed and, if acceptable, signed by a supervisor. Those field interview cards deemed to be unacceptable shall be destroyed. Approved F.I. cards shall be forwarded to the ISD Office Specialist for entry into the Department computer system.

F.I. cards shall be filed for a period of six months. All F.I. cards that are older than six months shall be destroyed by the ISD Office Specialist. The ISD Office Specialist shall also purge all information from the Department computer that is related to those F.I. cards which have been destroyed.

#### **440.4 PAT-DOWN SEARCHES**

A pat-down search of a detained subject may be conducted whenever an officer reasonably believes that the person may possess an object that can be utilized as an offensive weapon or whenever the officer has a reasonable fear for his/her own safety or the safety of others. Circumstances that may establish justification for performing a pat-down search include, but are not limited to the following:

- (a) The type of crime suspected, particularly in crimes of violence where the use or threat of deadly weapons is involved.
- (b) Where more than one suspect must be handled by a single officer.
- (c) The hour of the day and the location or neighborhood where the stop takes place.
- (d) Prior knowledge of the suspect's use of force and/or propensity to carry deadly weapons.
- (e) The appearance and demeanor of the suspect.
- (f) Visual indications which suggest that the suspect is carrying a firearm or other weapon.
- (g) The age and gender of the suspect.

Whenever possible, pat-down searches should be performed by officers of the same gender.

#### **440.5 FIELD PHOTOGRAPHS**

Before photographing any field detainee, the officer shall carefully consider, among other things, the factors listed below.

##### **440.5.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT**

Field photographs may be taken when the subject of the photograph knowingly and voluntarily gives consent to be photographed.

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#### 440.5.2 FIELD PHOTOGRAPHS TAKEN WITHOUT CONSENT

Field photographs may be taken without consent only if they are taken during a detention that is based upon reasonable suspicion of criminal activity, and the photograph serves a legitimate law enforcement purpose related to the detention. Mere knowledge or suspicion of gang membership or affiliation is not a sufficient justification for taking a photograph without consent. The officer must be able to articulate facts that reasonably indicate that the subject was involved in or was about to become involved in criminal conduct.

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

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

#### **440.6 SUPERVISOR RESPONSIBILITY**

While it is recognized that field photographs often become valuable investigative tools, supervisors should monitor such practices in view of the above listed considerations. This is not to imply that supervisor approval is required before each photograph. Access to field photographs shall be strictly limited to law enforcement purposes.

#### **440.7 DISPOSITION OF PHOTOGRAPHS**

All detainee photographs must be downloaded into the Digital Imaging Database. See Policy Manual § 711 for procedures.

##### 440.7.1 PURGING THE FIELD PHOTO FILE

The Records Manager will be responsible for ensuring that photographs maintained by the Technical Services Division that are more than one year old and no longer serve a law enforcement purpose are periodically purged and destroyed. Photographs that continue to serve a legitimate law enforcement purpose may be retained longer than one year provided that a notation of that fact is added to the file for each additional year that they are retained. Access to the FI photo file shall be strictly limited to law enforcement purposes.

A photograph need not be purged but may be retained as an updated photograph in a prior booking file if the person depicted in the photograph has been booked at the Palo Alto Police Department and the booking file remains in the Technical Services Division.

#### **440.8 PHOTO REVIEW POLICY**

Any person who has been the subject of a field photograph or an FI by this agency during any contact other than an arrest may file a written request within 30 days of the contact requesting a review of the status of the photograph/FI. The request shall be directed to the office of the Chief of Police who will ensure that the status of the photograph or FI is properly reviewed according to this policy as described below. Upon a verbal request, the Department will send a request form to the requesting party along with a copy of this policy.

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#### 440.8.1 REVIEW PROCESS

Upon receipt of such a written request, the Chief of Police or his or her designee will permit the individual to appear in person (any minor must be accompanied by their parent or legal guardian) for a review of the status of the photograph/FI.

Such a meeting will generally be scheduled during regular business hours within 30 days of the receipt of the written request. An extension of the 30-day limit may be made either upon the mutual convenience of the parties or if, at the discretion of the Chief of Police, there appears to be an ongoing legitimate law enforcement interest which warrants a delay. If the delay could jeopardize an ongoing investigation, nothing in this policy shall require the Chief of Police to disclose the reason(s) for the delay.

A meeting for the review of the status of any non-arrest photograph/FI is not intended to be a formal hearing, but simply an informal opportunity for the individual to meet with the Chief of Police or his/her designee to discuss the matter.

After carefully considering the information available, the Chief of Police or designee will determine, generally within 30 days of the original meeting, whether the photograph/FI was obtained in accordance with existing law and Palo Alto Police Department policy and, even if properly obtained, then whether there is any ongoing legitimate law enforcement interest in retaining the photograph/FI.

If the Chief of Police or his/her designee determines that the photograph/FI was obtained in accordance with existing law and department policy and that there is an ongoing legitimate law enforcement interest in retaining the non-arrest photograph, the photograph/FI shall be retained according to this policy and applicable law.

If the Chief of Police or his/her designee determines that the original legitimate law enforcement interest in retaining a non-arrest photograph no longer exists or that it was obtained in violation of existing law or Palo Alto Police Department policy, the original photograph will be destroyed or returned to the person photographed, if requested. All other associated reports or documents, however, will be retained according to department policy and applicable law.

If the Chief of Police or his/her designee determines that the original legitimate law enforcement interest in retaining a non-arrest FI no longer exists or that the original F/I was not obtained in accordance with established law or Palo Alto Police Department policy, the original FI may only be destroyed upon the execution of a full and complete waiver of liability by the individual (and guardian if a minor) arising out of that field contact.

If the Chief of Police or his/her designee determines that any involved Palo Alto Police Department personnel violated existing law or department policy, the Chief of Police or designee shall initiate a separate internal investigation which may result in additional training, discipline or other appropriate action for the involved employees.



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The person photographed/FI'd will be informed in writing within 30 days of the Chief of Police's determination whether or not the photograph/FI will be retained. This does not entitle any person to any discovery or access to any law enforcement records not otherwise authorized by law.

## Watch Commanders

### **444.1 PURPOSE AND SCOPE**

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

### **444.2 DESIGNATION AS ACTING WATCH COMMANDER**

When a Lieutenant is unavailable for duty as Watch Commander, a Sergeant shall be designated as acting Watch Commander. In rare occasions an Agent may be assigned as a Watch Commander. This shall be done with the approval of the Field Services Division Captain.

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## Mobile Audio Video

### 446.1 PURPOSE AND SCOPE

The Palo Alto Police Department has equipped marked patrol cars with Mobile Audio Video (MAV) recording systems to provide records of events and assist officers in the performance of their duties. This policy provides guidance on the use of these systems.

#### 446.1.1 DEFINITIONS

Definitions related to this policy include:

**Activate** - Any process that causes the MAV system to transmit or store video or audio data in an active mode.

**In-car camera system and Mobile Audio Video (MAV) system** - Synonymous terms which refer to any system that captures audio and video signals, that is capable of installation in a vehicle, and that includes at minimum, a camera, microphone, recorder and monitor.

**MAV technician** - Personnel certified or trained in the operational use and repair of MAVs, duplicating methods, storage and retrieval methods and procedures, and who have a working knowledge of video forensics and evidentiary procedures.

**Recorded media** - Audio-video signals recorded or digitally stored on a storage device or portable media.

### 446.2 POLICY

It is the policy of the Palo Alto Police Department to use mobile audio and video technology to more effectively fulfill the department's mission and to ensure these systems are used securely and efficiently.

### 446.3 OFFICER RESPONSIBILITIES

- (a) The use of the MAV system is mandatory as outlined in this policy.
- (b) Each officer shall sign onto the system by selecting their name from the drop down menu on the MAV system. Prior to going into service, each officer will ensure that the equipment is functioning properly.
- (c) Required procedures include checking the power source, checking connections to the recording equipment AND checking that the system is recording both audio and visual information (including a remote activation test).
- (d) Any malfunction of the MAV shall be reported immediately to a supervisor. If a vehicle is kept in service without an operational MAV, a notation shall be made to Dispatch via radio transmission.
- (e) The supervisor will ensure that Technical Services Staff is notified of any system malfunction that requires repair or maintenance.

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- (f) The officer may view MAV recordings in the field during their shift.
- (g) There may be some situations where the officer desires to have a particular recording flagged with a case number, but that recording is of something other than one of the scenarios listed in Policy Manual §446.61. In that case, the officer shall notify the authorized Department personnel to mark video recording for retention, and authorized Department personnel will mark the recording to be held.
- (h) MAV recordings containing arrests, assaults, physical or verbal confrontations, vehicle pursuits, vehicle searches in which contraband is recovered, driving while intoxicated or under the influence arrests, or any prisoner transport shall be treated as evidence and held for use in criminal prosecution.
- (i) Officers shall not erase, alter, reuse, modify or tamper with MAV recordings. Only a MAV custodian or designee may erase and reissue previously media.

#### 446.3.1 BODY WORN CAMERAS

When assigned for use, body worn cameras shall be used in accordance with all aspects of the Department's MAV policy. The video and audio captured by these devices will be retained in a similar manner and for the same amount of time as video and audio files captured under the in-car MAV system.

#### **446.4 ACTIVATION OF THE MAV**

(a) Activation of the MAV is automatic when:

- The patrol vehicle's emergency lights (position #2 or #3), siren, or PA (public address system) are activated.
- The rear door of a K9 vehicle is opened.
- The rear door of a patrol vehicle is opened.
- The crash indicator is activated.
- The patrol vehicle attains a speed of 80 MPH.

(b) The system remains on until turned off manually while the ignition is on. Turning off the ignition will initiate the system's shutdown 30 minute timer which will have to be bypassed if a longer recording is desired with the ignition off.

(c) The officer worn microphone automatically turns on when the system is activated, recording both audio and video. The microphone will be worn at or above the waist on the outer layer of the uniform (ie. duty belt or epaulet).

(d) The MAV system has pre-event recording capability and will record events prior to manual or automatic activation of the MAV into a memory buffer. 30 seconds of video only pre-event recording is saved upon activation of the system. Additional "after the fact" video only is recorded onto the system's hard drive. It is available for retrieval until overwritten.

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(e) The in-car microphone is automatically activated when a recording is activated.

### 446.4.1 REQUIRED ACTIVATION OF MAV

This policy is not intended to describe every possible situation in which the MAV system may be used, although there are many situations where its use is appropriate. An officer may activate the system any time the officer believes it would be appropriate or valuable to document an incident.

In some circumstances it is not possible to capture images of the incident due to conditions or the location of the camera. However, the audio portion can be valuable evidence and is subject to the same activation requirements as the MAV. The MAV system should be activated in any of the following situations:

- (a) All field contacts involving actual or potential criminal conduct within video or audio range:
  - 1. Traffic stops (to include, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops)
  - 2. Code 3 responses
  - 3. Vehicle pursuits
  - 4. Suspicious vehicles
  - 5. Arrests
  - 6. Vehicle searches
  - 7. Physical or verbal confrontations or use of force
  - 8. Pedestrian checks
  - 9. DWI/DUI investigations including field sobriety tests
  - 10. Consensual encounters
  - 11. Crimes in progress
  - 12. Responding to an in-progress call
- (b) All self-initiated activity in which an officer would normally notify the Communications Center
- (c) Surveillance for law enforcement purposes during the course of an ongoing or potential investigation.
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording
- (e) Any other circumstance where the officer believes that a recording of an incident would be appropriate

### 446.4.2 CESSATION OF RECORDING

Once activated, the MAV system should remain on until the the officer's involvement in the incident has concluded. For purposes of this section, conclusion of an incident has occurred when all

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arrests have been made, arrestees have been transported and all witnesses and victims have been interviewed. Recording may cease if an officer is simply waiting for a tow truck or a family member to arrive, or in other similar situations.

### **446.4.3 WHEN ACTIVATION IS NOT REQUIRED**

Activation of the MAV system is not required when exchanging information with other officers or during breaks, lunch periods, when not in service or actively on patrol.

No member of this department may surreptitiously record a conversation of any other member of this department except with a court order or when lawfully authorized by the Chief of Police or the authorized designee for the purpose of conducting a criminal or administrative investigation.

### **446.4.4 SUPERVISOR RESPONSIBILITIES**

Supervisors should determine if vehicles with non-functioning MAV systems should be placed into service. If these vehicles are placed into service, the appropriate documentation should be made, including notification of the Communications Center and MAV technician

At reasonable intervals, supervisors should validate that:

- (a) Beginning and end-of-shift recording procedures are followed.
- (b) Videos are marked as required.
- (c) The operation of MAV systems by new employees is assessed and reviewed no less than biweekly.

When an incident arises that requires the immediate retrieval of the recorded media (e.g., serious crime scenes, officer-involved shootings, department-involved collisions), a supervisor shall respond to the scene and ensure that the appropriate supervisor, MAV technician or crime scene investigator properly retrieves the recorded media. The media may need to be treated as evidence and should be handled in accordance with current evidence procedures for recorded media.

Supervisors may activate the MAV system remotely to monitor a developing situation, such as a chase, riot or an event that may threaten public safety, officer safety or both, when the purpose is to obtain tactical information to assist in managing the event. Supervisors shall not remotely activate the MAV system for the purpose of monitoring the conversations or actions of an officer. Any time remote viewing is activated, a visual indicator will appear on the in-car video screen and the supervisor who initiated the activation will direct dispatch to notify all units that remote viewing is in progress.

### **446.5 REVIEW OF MAV RECORDINGS**

All recording media, recorded images and audio recordings are the property of the Department. Dissemination outside of the agency is strictly prohibited, except to the extent permitted or required by law.

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To prevent damage to, or alteration of, the original recorded media, it shall not be copied, viewed or otherwise inserted into any device not approved by the department MAV technician or forensic media staff. A copy of the original media shall be used for viewing (unless otherwise directed by the courts) to preserve the original media. The original media is stored and maintained on the Department's server.

Recordings may be reviewed in any of the following situations:

- (a) By the officer themselves for preparation of written reports or follow-up investigations.
- (b) By a supervisor or manager investigating a specific act of officer conduct or to mitigate a potential citizen complaint
- (c) By a supervisor for purposes of improving officer performance
- (d) By a Department employee after approval of a supervisor who is participating in an official investigation, such as a personnel complaint, administrative inquiry or a criminal investigation
- (e) By department personnel who request to review their own recordings in preparation for court testimony
- (f) By an officer who is captured on or referenced in the video or audio data and reviews and uses such data for any purpose relating to his/her employment
- (g) By authorized personnel (e.g. District Attorney, supervisor, manger) during discovery/court process. Recordings must be accessed through the proper process (Penal Code 1054.5 - discovery or court order)
- (h) Recordings may be shown for training purposes. If an involved officer objects to showing a recording, his/her objection will be submitted to the Chief of Police to determine if the training value outweighs the officer's objection for not showing the recording. Recordings shown for training purposes will be presented in a fair and unbiased manner.
- (i) In no event shall any recording be used or shown for the purpose of ridiculing or embarrassing any employee.

A first time infraction discovered during routine review of recorded material that is deemed minor in nature by Management, will generally be handled through training and counseling.

The MAV system as configured with five cameras and high quality audio has the capability to capture a significant amount of video and audio when in operation. An individual officer's experience may not include everything captured by the system.

## *Mobile Audio Video*

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### **446.6 DOCUMENTING MAV USE**

- (a) If any incident is recorded with either the video or audio system, the existence of that recording shall be documented in the officer's report.
- (b) If a citation is issued, the officer shall make a notation on the back of the officer's copy of the citation, indicating that the incident was recorded.
- (c) In the event of accidental recording, the officer shall submit a request to the MAV custodian for the deletion of the accidentally recorded data.

### **446.7 RECORDING MEDIA STORAGE AND INTEGRITY**

All MAV recordings will be retained in accordance with the established records retention schedule. (Government Code § 34090.6).

#### **446.7.1 COPIES OF ORIGINAL RECORDING MEDIA**

A copy of the original recording media will be made for use as authorized in this policy.

#### **446.7.2 MAV RECORDINGS AS EVIDENCE**

Officers who reasonably believe that a MAV recording is likely to contain evidence relevant to a criminal offense, potential claim against the officer or against the Palo Alto Police Department should indicate this in an appropriate report. Officers should ensure relevant recordings are preserved.

### **446.8 SYSTEM OPERATIONAL STANDARDS**

- (a) MAV system vehicle installations should be based on officer safety requirements and the vehicle and device manufacturer's recommendations.
- (b) The MAV system shall be configured to minimally record for 30 seconds prior to an event.
- (c) The MAV system shall not be configured to record audio data occurring prior to activation.
- (d) Officers shall not erase, alter, reuse, modify or tamper with MAV recordings. Only a supervisor, MAV technician or other authorized designee may erase and reissue previous recordings and may only do so pursuant to the provisions of this policy.

### **446.9 MAV CUSTODIAN RESPONSIBILITIES**

- (a) The Technical Services Division (TSD) has overall responsibility for the MAV system and shall serve as custodian of these records.
- (b) All Police MAV recordings, excepting test recordings or accidental activations, shall be retained in accordance with California Government Code (CGC) §34090 and CGC §34090.6 for a period of not less than one year.



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### *Mobile Audio Video*

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- (c) Release of MAV recordings shall be conducted in accordance with Penal Code §1054.5 (discovery requests for criminal prosecution), CGC §6250 (California Public Records Act) and in accordance with Policy Manual §810 (Release of Records and Information).
- (d) All retrieved MAV recordings will be uploaded into the MAV server within the same day as the recording unless hindered by equipment or network malfunction or availability.
- (e) Routine and evidentiary MAV recordings on the server are backed up daily on a redundant server so that recordings are accessible online by officers for a period of not less than 365 days from the date of recording.
- (f) All routine requests by authorized department personnel for online access to MAV recordings for court preparation or other official business, outside of the normal online access period will be handled within 2-3 business days of the request.
- (g) If an emergency need to access these recordings is required, the Technical Services Division On Call Technician can be contacted for immediate restoration and access.
- (h) The MAV custodian or their designee shall be responsible for the retrieval, storage, backup and duplication of all MAV recordings in addition to the ongoing maintenance of the systems and association components.
- (i) All MAV recordings will be retained in accordance with the established records retention schedule (Government Code 34090.6)
- (j) MAV recordings will be stored on a separate and secure server.

#### **446.10 TRAINING**

All members who are authorized to use the MAV system shall successfully complete an approved course of instruction prior to its use.

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## Mobile Data Computer Use

### 448.1 PURPOSE AND SCOPE

The Mobile Data Computer (MDC) accesses confidential records from the State of California, Department of Justice and Department of Motor Vehicles databases. Employees using the MDC shall comply with all appropriate federal and state rules and regulations.

### 448.2 MDC USE

The MDC shall be used for official police communications only. Messages that are of a sexual, racist, or offensive nature, or otherwise critical of any member of the Department are strictly forbidden. MDC use is also subject to the Department Technology Use Policy.

Messages may be reviewed by supervisors at anytime without prior notification. Employees generating or transmitting messages not in compliance with this policy are subject to discipline.

All calls dispatched to patrol units should be communicated by voice and MDC unless otherwise authorized by the Watch Commander.

#### 448.2.1 USE WHILE DRIVING

Use of the MDC by the vehicle operator should generally be limited to times when the vehicle is stopped. When the vehicle is in motion, the operator should only attempt to read messages that are likely to contain information that is required for immediate enforcement, investigative or safety needs.

Short transmissions, such as a license plate check, are permitted if it reasonably appears that it can be done safely. In no case shall an operator attempt to send or review lengthy messages while the vehicle is in motion.

#### 448.2.2 DOCUMENTATION OF ACTIVITY

MDC's and voice transmissions are used to record the officer's daily activity. To ensure the most accurate recording of these activities, the following are required:

- (a) All contacts or activity shall be documented at the time of the contact;
- (b) Whenever the activity or contact is initiated by voice, it shall be entered into the Computer Aided Dispatch (CAD) system by a dispatcher;
- (c) Whenever the activity or contact is not initiated by voice, the officer shall record it on the MDC.

#### 448.2.3 STATUS CHANGES

All changes in status (e.g., arrival at scene, meal periods, in service) will be transmitted either verbally over the police radio or through the MDC system.

Officers responding to in-progress calls shall advise changes in status verbally over the radio to assist other officers responding to the same incident.

## *Mobile Data Computer Use*

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Other changes in status may be entered by depressing the appropriate keys on the MDC's.

### **448.3 MDC CONSIDERATIONS**

#### **448.3.1 NON-FUNCTIONING MDC**

Whenever possible, officers will not use units with malfunctioning MDC's. Whenever officers must drive a unit in which the MDC is not working, they shall notify the Communications Center. It shall be responsibility of the Communications Center to record all information that will then be transmitted verbally over the police radio.

It is the officer's responsibility to notify Technical Services when the MDC is not functioning properly.

#### **448.3.2 BOMB CALLS**

When investigating reports of possible bombs, officers will turn off their MDC's. Operating the MDC may cause some devices to detonate.

## Use of Audio Recorders

### 450.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of this department while in the performance of their duties.

This policy does not apply to surreptitious interception of electronic communications for lawful authorized investigative purposes or to mobile audio video recordings (see the Mobile Audio Video Policy).

### 450.2 POLICY

The Palo Alto Police Department may provide members with access to portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public.

Santa Clara County Protocols Section 13 - Recording of Violent Suspect Statement Protocol shall be utilized as a guideline during the custodial interrogation of a violent felony suspect. Personnel are required to read and follow Santa Clara County Protocols, Section 13 - Recording of Violent Suspect Statement Protocol.

### 450.3 PRIVACY

All recordings made by personnel acting in their official capacity as members of this department shall remain the property of the Department and should not be considered private, regardless of whether those recordings were made with department-issued or personally owned recorders.

### 450.4 MEMBER RESPONSIBILITIES

The Digital Audio Recorder (DAR) is turned on and off manually. Personnel using DAR equipment must be familiar with the activation and operation of the device in order to comply with the obligations of this section.

Penal Code § 632 prohibits any individual from surreptitiously recording any conversation in which any party to the conversation has a reasonable belief that the conversation was private or confidential, however Penal Code § 633 expressly exempts law enforcement from this prohibition during the course of a criminal investigation.

- (a) No member of this department may surreptitiously record a conversation of any other member of this department without the expressed knowledge and consent of all parties. Nothing in this section is intended to interfere with an officer's right to openly record any interrogation pursuant to Government Code § 3303(g).
- (b) Any member of this department may surreptitiously record any conversation during the course of a criminal investigation in which the officer reasonably believes that such a recording will be beneficial to the investigation.

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### *Use of Audio Recorders*

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1. For the purpose of this policy, any officer contacting an individual suspected of violating any law or during the course of any official law enforcement related activity shall be presumed to be engaged in a criminal investigation. This presumption shall not apply to contacts with other employees conducted solely for administrative purposes.
  2. For the purpose of this policy, it shall further be presumed that any individual contacted by a uniformed officer wearing a conspicuously mounted audio recorder will have knowledge that such a contact is being recorded.
- (c) Members of the Department are encouraged to activate their recorders at any time that the officer reasonably believes that a recording of an on-duty contact with a member of the public may be of future benefit.
1. At no time should an officer jeopardize his/her safety in order to activate a recorder or change the recording media.
  2. Officers are prohibited from utilizing department recorders and recording media for personal use.
  3. Since Penal Code §633 only allows officers who are conducting a criminal investigation to surreptitiously records subjects, officers who are audio recording subjects outside of any potential criminal investigation and in which the subject has an expectation of privacy, the officer shall inform the individual of his/her intent to record the conversation.
- Once the DAR is activated, it shall remain on and shall not be turned off until the incident has concluded. For purposes of this section, conclusion of an incident has occurred when all citations have been issued, all arrests have been made, all arrestees have been removed from the scene or situation, and victims, witnesses, etc have been interviewed. Recording may cease if an officer is simply waiting for a tow truck to arrive or other similar situations.
- (d) Any incident that was recorded by DAR shall be documented in the officer's report. If a citation was issued or a field interview card was completed, the officer shall note on the back of the records copy that the incident was recorded.

#### **450.5 ACTIVATION OF THE AUDIO RECORDER**

Members should activate the recorder at any time the member reasonably believes that a recording of an on-duty contact may be useful. Once started, recordings should continue without interruption until the contact ends, if feasible.

At no time is a member expected to jeopardize his/her safety in order to activate a recorder or change the recording media. However, the recorder should be activated in required situations as soon as practicable.

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## Policy Manual

### *Use of Audio Recorders*

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#### **450.5.1 SURREPTITIOUS USE OF THE AUDIO RECORDER**

Members of the Department may surreptitiously record any conversation during the course of a criminal investigation in which the officer reasonably believes that such a recording will be beneficial to the investigation (Penal Code § 633).

Members shall not surreptitiously record another department member without a court order or unless lawfully authorized by the Chief of Police or the authorized designee.

#### **450.6 PROHIBITED USE OF PORTABLE RECORDERS**

Members are prohibited from using department-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department.

Any member who uses a personally owned recorder for department-related activities shall comply with the provisions of this policy, including retention and release requirements.

Recordings shall not be used by any member for the purpose of embarrassment or ridicule.

Any member who may have questions regarding the application of this policy is encouraged to seek clarification from supervisory personnel.

#### **450.7 RETENTION OF RECORDINGS**

Any time a member records any portion of a contact that the member reasonably believes constitutes evidence in a criminal case, the member shall record the related case number and download the file in accordance with the Computers and Digital Evidence Policy and document the existence of the recording in the related case report.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

Members should upload the file, in accordance with current procedure for storing digital files, at the end of their shift and any time the storage capacity is nearing its limit.

#### **450.8 RELEASE OF RECORDINGS**

Recordings made using portable recording devices pursuant to this policy are department records and may only be released as provided in the Release of Records and Information Policy or for other authorized legitimate department business purposes.

## *Use of Audio Recorders*

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### **450.9 REVIEW OF RECORDED MEDIA FILES**

When preparing written reports, members should review their recordings as a resource. However, members should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct, reports of meritorious conduct or whenever such recordings would be beneficial in improving the officer's performance.

Recorded files may also be reviewed:

- (a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) In compliance with a public records request, if permitted, and in accordance with the Release of Records and Information Policy.

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## Medical Marijuana

### 452.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of this department with guidelines for investigating the acquisition, possession, transportation, delivery, production or use of marijuana under California's medical marijuana laws.

#### 452.1.1 DEFINITIONS

Definitions related to this policy include:

**Cardholder** - A person issued a current identification card.

**Compassionate Use Act (CUA)** (Health and Safety § 11362.5) - California law intended to provide protection from prosecution to those who are seriously ill and whose health would benefit from the use of marijuana in the treatment of illness for which marijuana provides relief. The CUA does not grant immunity from arrest but rather provides an affirmative defense from prosecution for possession of medical marijuana.

**Identification card** - A valid document issued by the State Department of Health Services to both persons authorized to engage in the medical use of marijuana and also to designated primary caregivers.

**Medical marijuana** - Marijuana possessed by a patient or primary caregiver for legitimate medical purposes.

**Medical Marijuana Program (MMP)** (Health and Safety § 11362.7 et seq.) - California laws passed following the CUA to facilitate the prompt identification of patients and their designated primary caregivers in order to avoid unnecessary arrests and provide needed guidance to law enforcement officers. MMP prohibits arrest for possession of medical marijuana in certain circumstances and provides a defense in others.

**Patient** - A person who is entitled to the protections of the CUA because he/she has received a written or oral recommendation or approval from a physician to use marijuana for medical purposes or any person issued a valid identification card.

**Primary caregiver** - A person designated by the patient, who has consistently assumed responsibility for the patient's housing, health or safety, who may assist the patient with the medical use of marijuana under the CUA or the MMP (Health and Safety Code § 11362.5; Health and Safety Code § 11362.7).

**Statutory amount** - No more than eight ounces of dried, mature, processed female marijuana flowers (#bud#) or the plant conversion (e.g., kief, hash, hash oil), and no more than six mature or 12 immature marijuana plants (roots, stems and stem fibers should not be considered).



## *Medical Marijuana*

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### **452.2 POLICY**

It is the policy of the Palo Alto Police Department to prioritize resources to forgo making arrests related to marijuana that the arresting officer reasonably believes would not be prosecuted by state or federal authorities.

California's medical marijuana laws are intended to provide protection to those who are seriously ill and whose health would benefit from the use of medical marijuana.

However, California medical marijuana laws do not affect federal laws and there is no medical exception under federal law for the possession or distribution of marijuana. The Palo Alto Police Department will exercise discretion to ensure laws are appropriately enforced without unreasonably burdening both those individuals protected under California law and public resources.

### **452.3 INVESTIGATION**

Investigations involving the possession, delivery, production or use of marijuana generally fall into one of several categories:

- (a) Investigations when no person makes a medicinal claim.
- (b) Investigations when a medicinal claim is made by a cardholder.
- (c) Investigations when a medicinal claim is made by a non-cardholder.

#### **452.3.1 INVESTIGATIONS WITH NO MEDICINAL CLAIM**

In any investigation involving the possession, delivery, production or use of marijuana or drug paraphernalia where no person claims that the marijuana is used for medicinal purposes, the officer should proceed with a criminal investigation. A medicinal defense may be raised at any time, so officers should document any statements and observations that may be relevant to whether the marijuana was possessed or produced for medicinal purposes.

#### **452.3.2 INVESTIGATIONS INVOLVING A MEDICINAL CLAIM MADE BY A CARDHOLDER**

A cardholder or designated primary caregiver in possession of an identification card shall not be arrested for possession, transportation, delivery or cultivation of medical marijuana at or below the statutory amount unless there is reasonable cause to believe that (Health and Safety Code § 11362.71; Health and Safety Code § 11362.78):

- (a) The information contained in the card is false or falsified.
- (b) The card has been obtained or used by means of fraud.
- (c) The person is otherwise in violation of the provisions of the MMP.
- (d) The person possesses marijuana but not for personal medical purposes.

Officers who reasonably believe that a person who does not have an identification card in his/her possession has been issued an identification card may treat the investigation as if the person had the card in his/her possession.

## *Medical Marijuana*

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Cardholders may possess, transport, deliver or cultivate medical marijuana in amounts above the statutory amount if their doctor has concluded that the statutory amount does not meet the patient's medical needs (Health and Safety Code § 11362.71; Health and Safety Code § 11362.77). Investigations involving cardholders with more than the statutory amount of marijuana should be addressed as provided in this policy for a case involving a medicinal claim made by a non-cardholder.

### 452.3.3 INVESTIGATIONS INVOLVING A MEDICINAL CLAIM MADE BY A NON-CARDHOLDER

No patient or primary caregiver should be arrested for possession or cultivation of an amount of medical marijuana if the officer reasonably believes that marijuana is in a form and amount reasonably related to the qualified patient's current medical needs (Health and Safety Code § 11362.5). This arrest guidance also applies to sales, transportation or, delivery of medical marijuana, or maintaining/renting a drug house or building that may be a nuisance if otherwise in compliance with MMP (Health and Safety Code § 11362.765).

Officers are not obligated to accept a person's claim of having a physician's recommendation when the claim cannot be readily verified with the physician but are expected to use their judgment to assess the validity of the person's medical-use claim.

Officers should review any available written documentation for validity and whether it contains the recommending physician's name, telephone number, address and medical license number for verification.

Officers should generally accept verified recommendations by a physician that statutory amounts do not meet the patient's needs (Health and Safety Code § 11362.77).

### 452.3.4 ADDITIONAL CONSIDERATIONS

Officers should consider the following when investigating an incident involving marijuana possession, delivery, production or use:

- (a) Because enforcement of medical marijuana laws can be complex, time consuming and call for resources unavailable at the time of initial investigation, officers may consider submitting a report to the prosecutor for review, in lieu of making an arrest. This can be particularly appropriate when:
  - 1. The suspect has been identified and can be easily located at a later time.
  - 2. The case would benefit from review by a person with expertise in medical marijuana investigations.
  - 3. Sufficient evidence, such as photographs or samples, has been lawfully obtained.
  - 4. Other relevant factors, such as available department resources and time constraints prohibit making an immediate arrest.

## *Medical Marijuana*

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- (b) Whenever the initial investigation reveals an amount of marijuana greater than the statutory amount, officers should consider the following when determining whether the form and amount is reasonably related to the patient's needs:
  - 1. The amount of marijuana recommended by a medical professional to be ingested.
  - 2. The quality of the marijuana.
  - 3. The method of ingestion (e.g., smoking, eating, nebulizer).
  - 4. The timing of the possession in relation to a harvest (patient may be storing marijuana).
  - 5. Whether the marijuana is being cultivated indoors or outdoors, the climate, etc.
- (c) Before proceeding with enforcement related to collective gardens or dispensaries, officers should consider conferring with a supervisor or other member with special knowledge in this area and/or appropriate legal counsel. Licensing, zoning and other related issues can be complex. Patients, primary caregivers and cardholders who collectively or cooperatively cultivate marijuana for medical purposes are provided a defense under MMP (Health & Safety Code § 11362.775).
- (d) Investigating members should not order a patient to destroy marijuana plants under threat of arrest.

### 452.3.5 EXCEPTIONS

This policy does not apply to, and officers should consider taking enforcement action for the following:

- (a) Persons who engage in illegal conduct that endangers others, such as driving under the influence of marijuana in violation of the Vehicle Code (Health and Safety Code § 11362.5).
- (b) Marijuana possession in jails or other correctional facilities that prohibit such possession (Health and Safety Code § 11362.785).
- (c) Smoking marijuana (Health and Safety Code § 11362.79):
  - 1. In any place where smoking is prohibited by law.
  - 2. In or within 1,000 feet of the grounds of a school, recreation center or youth center, unless the medical use occurs within a residence.
  - 3. On a school bus.
  - 4. While in a motor vehicle that is being operated.
  - 5. While operating a boat.
- (d) Use of marijuana by a person on probation or parole, or on bail and use is prohibited by the terms of release (Health and Safety Code § 11362.795).

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### **452.4 FEDERAL LAW ENFORCEMENT**

Officers should provide information regarding a marijuana investigation to federal law enforcement authorities when it is requested by federal law enforcement authorities or whenever the officer believes those authorities would have a particular interest in the information.

### **452.5 PROPERTY AND EVIDENCE SECTION SUPERVISOR RESPONSIBILITIES**

The Property and Evidence Section Supervisor should ensure that marijuana, drug paraphernalia or other related property seized from a person engaged or assisting in the use of medical marijuana is not destroyed pending any charges and without a court order. The Property and Evidence Section Supervisor is not responsible for caring for live marijuana plants, nor is any other City employee.

Upon the prosecutor's decision to forgo prosecution, or the dismissal of charges or an acquittal, the Property and Evidence Section Supervisor should, as soon as practicable, return to the person from whom it was seized any useable medical marijuana, plants, drug paraphernalia or other related property.

The Property and Evidence Section Supervisor may release marijuana to federal law enforcement authorities upon presentation of a valid court order or by a written order of the Investigative Services Manager.

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## Bicycle Patrol Program

### 454.1 PURPOSE AND SCOPE

The purpose of this policy is to establish working guidelines for the implementation, operation and maintenance of a uniformed bicycle patrol program. The goals of the Department Bicycle Patrol Program are to:

- (a) Enhance prevention of crime and apprehension of criminals in the City of Palo Alto;
- (b) Improve one-on-one citizen contact particularly in business districts;
- (c) Conduct bicycle safety programs in the City of Palo Alto;
- (d) Assist with crowd control at special events or functions within the City.

### 454.2 POLICY

Patrol bicycles may be used for regular patrol duty, traffic enforcement, parking control, or special events. The use of the patrol bicycle will emphasize their mobility and visibility to the community.

Bicycles may be deployed to any area at all hours of the day or night, according to Department needs and as staffing levels allow.

Requests for specific deployment of bicycle patrol officers shall be coordinated through the Bicycle Patrol Unit supervisor or the Watch Commander.

#### 454.2.1 ASSIGNMENTS

Assignment and effective utilization of the bicycle patrol officers will be the responsibility of the Watch Commander and Bicycle Patrol Lieutenant or supervisor. Bicycle patrol officers may be assigned as follows:

- (a) As a member of a specialized bicycle patrol unit assigned areas of patrol responsibility to best meet the needs of the community;
- (b) To uniformed bicycle patrol as staffing permits and at the discretion of the shift supervisor;
- (c) To work special details at the discretion of the commanding officer responsible for the event;
- (d) Specialized bicycle patrol in designated areas as part of a Community Policing or Problem Oriented Policing project at the discretion of the shift supervisor or command staff member.

### 454.3 SELECTION OF PERSONNEL

Full-time and reserve police officers who have successfully completed the field training program and are off probation are eligible for the uniformed Bicycle Patrol Program. Eligible officers must complete, at a minimum, a 8 hour in-house course of police bicycle instruction. The instructor of the training course shall have completed a POST approved instructor's course. Officers who have completed 8 or more hours of similar training by another law enforcement agency are also eligible, if he/she has proper documentation or certification. Training should include the following subjects:

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- (a) Bicycle care and maintenance;
- (b) Safe bicycle operations;
- (c) Officer safety tactics;
- (d) Pedestrian/bicycle/vehicle stops;
- (e) Community relations.

Bicycle patrol officers must attend an update training when scheduled by the bicycle patrol supervisor.

Assignment to work Bicycle Patrol will be determined by the following:

- (a) Intra-Departmental transfer submitted by officer candidate;
- (b) Meet physical standards as required by the Bicycle Patrol Program Lieutenant and the Chief of Police;
- (c) Successful completion of the Department Bicycle Patrol Training Course or equivalent;
- (d) Final approval of Bicycle Program Lieutenant and the Chief of Police.

### **454.3.1 BICYCLE PATROL UNIT SUPERVISOR**

The Bicycle Patrol Program supervisor will be selected from the rank of sergeant or agent by the Field Services Division Captain or his/her designee.

The Bicycle Patrol Program supervisor shall have responsibility for the following:

- (a) Organizing bicycle patrol training.
- (b) Inspecting and maintaining inventory of patrol bicycles and program equipment.
- (c) Scheduling maintenance and repairs.
- (d) Evaluating performance of bicycle officers.
- (e) Coordinating activities with the Field Services Division.
- (f) Other activities as required to maintain the efficient operation of the Bicycle Patrol Unit.

### **454.4 TRAINING**

Participants in the program must complete an initial Department approved bicycle-training course after acceptance into the program. Thereafter bicycle patrol officers should receive in-service training to improve skills and refresh safety, health and operational procedures when scheduled by the program supervisor. The initial training shall minimally include the following:

- Bicycle patrol strategies.
- Bicycle safety and accident prevention.
- Operational tactics using bicycles.

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### *Bicycle Patrol Program*

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#### **454.5 UNIFORMS AND EQUIPMENT**

Officers shall wear the department-approved uniform and safety equipment while operating the department bicycle. Safety equipment includes department-approved helmet, riding gloves, protective eyewear and approved footwear.

The bicycle patrol unit uniform consists of the standard short-sleeve uniform shirt or other department-approved shirt with department badge and patches, and department-approved bicycle patrol pants or shorts.

Optional equipment includes a radio head set and microphone, and jackets in colder weather. Turtleneck shirts or sweaters are permitted when worn under the uniform shirt.

Bicycle patrol officers shall carry the same equipment on the bicycle patrol duty belt as they would on a regular patrol assignment.

Officers will be responsible for obtaining the necessary forms, citation books and other department equipment needed while on bicycle patrol.

#### **454.6 CARE AND USE OF PATROL BICYCLES**

It shall be the officer's responsibility to inspect the bike before and after his or her deployment to ensure the bike is clean and in proper working order. The following bicycle upkeep and maintenance procedures shall apply:

- (a) Officers may make minor repairs to their equipment as necessary to keep the bicycle operational;
- (b) Damage, which the officer cannot repair, will be reported immediately to the Bicycle Patrol Sergeant and the bicycle clearly marked as "out of service";
- (c) All major repairs and tune-ups will be completed by a Department-approved repair service, or Department certified maintenance officer;
- (d) All bicycles will receive a tune-up every four months unless needed sooner. (This will be policy only if the bicycle is being used on a continued basis);
- (e) Officers will use their handcuffs to secure their bicycles whenever out of the officer's sight;
- (f) Officers shall clean their bikes prior to the end of their shift;
- (g) All bicycles will be stored in the designated area.

#### **454.7 OFFICER RESPONSIBILITY**

Officers must operate the bicycle in compliance with the vehicle code under normal operation. Officers may operate the bicycle without lighting equipment during hours of darkness when such operation reasonably appears necessary for officer safety and tactical considerations. Officers must use caution and care when operating the bicycle without lighting equipment.

Officers are exempt from the rules of the road under the following conditions (Vehicle Code § 21200(b)(1)):

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- (a) In response to an emergency call.
- (b) While engaged in rescue operations.
- (c) In the immediate pursuit of an actual or suspected violator of the law.

Bicycle Patrol Officers will use their assigned call numbers at all times. Bicycle Patrol Officers will respond to calls for service as requested by dispatch or the shift supervisor. Calls for service will be limited to calls within close proximity of their assigned area. Bicycle Patrol Officers will maintain use of the forward white light, and the rear red safety light at all times, unless movement for a specific assignment requires black out movement.



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## Global Positioning System

### 459.1 PURPOSE AND SCOPE

Global Positioning System (GPS) technology is an asset to officer safety and can greatly assist officers with their response to calls. The Police Department provides GPS technology in patrol vehicles.

### 459.2 PROCEDURE

All personnel, when working a patrol assignment and using a vehicle equipped with GPS technology, shall adhere to the following procedure:

- (a) Start the GPS program (known as "CADStat") on the laptop at the beginning of the shift. When prompted, enter radio call sign.
- (b) Keep program properly operational throughout the entire shift.

Supervisory personnel may elect to temporarily "hide" their position from other field units in the event that it is necessary in the course and scope of their supervisory duties.

### 459.3 TRAINING

All field personnel will be trained in the use of this technology and the CADStat program, including how to recognize if the program is working properly and basic troubleshooting techniques that will rectify most problems. The training will be conducted by Department-authorized personnel.

### 459.4 RECORD KEEPING

No historical data beyond the last known single GPS position of any field unit shall be kept or maintained by the Police Department or by any other department within the City.

### 459.5 REPORTING GPS PROBLEMS

If the CADStat program will not operate properly, personnel are required to troubleshoot the problem as trained. If that does not solve the problem, they are required to immediately notify their supervisor. If the supervisor cannot rectify the problem, the field unit or supervisor shall send an e-mail message to the Helpdesk before the end of the shift describing the problem and requesting that it be fixed.

The supervisor, at their discretion, may require the field unit to use another vehicle. If the field unit goes into service without working GPS technology, they shall advise Communications verbally using the police radio.

### 459.6 MANDATORY USE OF GPS

The use of the GPS (CADStat) is mandatory for all personnel when working a patrol assignment and using a vehicle equipped with GPS technology.

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## Automated License Plate Readers (ALPRs)

### 462.1 PURPOSE AND SCOPE

Automated License Plate Reader (ALPR) technology, also known as License Plate Recognition, provides automated detection of license plates. ALPRs are used by the Palo Alto Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. ALPRs may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

### 462.2 ALPR OPERATION

Use of an ALPR is restricted to the purposes outlined below. Department personnel shall not use, or allow others to use the equipment or database records for any unauthorized purpose.

- (a) An ALPR shall only be used for official and legitimate law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so.
- (f) If practicable, the officer should verify an ALPR response through CLETS before taking enforcement action that is based solely on an ALPR alert.

### 462.3 ALPR DATA COLLECTION AND RETENTION

All data and images gathered by an ALPR are for the official use of the Palo Alto Police Department and because such data may contain confidential CLETS information, it is not open to public review. ALPR information gathered and retained by this department may be used and shared with prosecutors or others only as permitted by law.

Files will be transferred from field units to a server maintained by the Santa Clara County Sheriff's Department. This data should be stored for a minimum of one year (Government Code 34090.6), and thereafter may be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a lawful action to produce records. In those

## *Automated License Plate Readers (ALPRs)*

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circumstances, the applicable data should be either downloaded from the server onto portable media and booked into evidence or marked so that it will not be automatically purged.

### **462.4 ACCOUNTABILITY AND SAFEGUARDS**

All saved data will be closely safeguarded and protected by both procedural and technological means. The Palo Alto Police Department will observe the following safeguards regarding access to and use of stored data:

- (a) All non-law enforcement requests for access to stored ALPR data shall be referred to the Records Manager and processed in accordance with applicable law.
- (b) All ALPR data downloaded to the mobile workstation and server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time.
- (c) Persons approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (d) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies at any time for legitimate law enforcement purposes.
- (e) ALPR system audits should be conducted on a regular basis.

## Chapter 5 - Traffic Operations

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## Traffic Function and Responsibility

### 500.1 PURPOSE AND SCOPE

The ultimate goal of traffic law enforcement is to reduce traffic collisions. This may be achieved through the application of such techniques as geographic/temporal assignment of personnel and equipment and the establishment of preventive patrols to deal with specific categories of unlawful driving behavior. Traffic enforcement techniques are based on accident data, enforcement activity records, traffic volume, and traffic conditions. This department provides enforcement efforts toward violations, not only in proportion to the frequency of their occurrence in accident situations, but also in terms of traffic-related needs.

### 500.2 TRAFFIC OFFICER DEPLOYMENT

Several factors are considered in the development of deployment schedules for officers of the Palo Alto Police Department. Information provided by the California Statewide Integrated Traffic Reporting System (SWITRS) is a valuable resource for traffic accident occurrences and therefore officer deployment. Some of the factors for analysis include:

- Location
- Time
- Day
- Violation factors

All officers assigned to patrol or traffic enforcement functions will emphasize enforcement of accident causing violations during high accident hours and at locations of occurrence. All officers will take directed enforcement action on request, and random enforcement action when appropriate against violators as a matter of routine. All officers shall maintain high visibility while working general enforcement, especially at high accident locations.

Other factors to be considered for deployment are citizen requests, construction zones or special events.

### 500.3 ENFORCEMENT

Enforcement actions are commensurate with applicable laws and take into account the degree and severity of the violation committed. This department does not establish ticket quotas and the number of arrests or citations issued by any officer shall not be used as the sole criterion for evaluating officer overall performance (Vehicle Code § 41603). The visibility and quality of an officer's work effort will be commensurate with the philosophy of this policy. Several methods are effective in the reduction of collisions:

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### *Traffic Function and Responsibility*

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#### 500.3.1 WARNINGS

Warnings or other non-punitive enforcement actions should be considered in each situation and substituted for arrests or citations when circumstances warrant, especially in the case of inadvertent violations.

#### 500.3.2 CITATIONS

Citations may be issued when an officer believes it is appropriate. It is essential that officers fully explain the rights and requirements imposed on motorists upon issuance of a citation for a traffic violation. Officers should provide the following information at a minimum:

- (a) Explanation of the violation or charge
- (b) Court appearance procedure including the optional or mandatory appearance by the motorist
- (c) Notice of whether the motorist can enter a plea and pay the fine by mail or at the court

#### 500.3.3 PHYSICAL ARREST

Physical arrest can be made on a number of criminal traffic offenses outlined in the Vehicle Code or Penal Code. These physical arrest cases usually deal with, but are not limited to:

- (a) Vehicular manslaughter
- (b) Felony and misdemeanor driving under the influence of alcohol/drugs
- (c) Felony or misdemeanor hit-and-run
- (d) Refusal to sign notice to appear
- (e) Any other misdemeanor at the discretion of the officer, such as reckless driving with extenuating circumstances
- (f) Mandatory appearance per Vehicle Code §40302

#### **500.4 SUSPENDED OR REVOKED DRIVERS LICENSES**

If an officer contacts a traffic violator for driving on a suspended or revoked license, the officer may issue a traffic citation pursuant to Vehicle Code § 14601.

If a computer check of a traffic violator's license status reveals a suspended or revoked driver license and the traffic violator still has his or her license in possession, the license shall be seized by the officer. The officer shall verbally advise the traffic violator of the suspension or revocation and issue the citation. The officer will be responsible for filling out the Verbal Notice form (DMV form DL-310) and causing that form and license to be forwarded to the Department of Motor Vehicles.

#### **500.5 HIGH-VISIBILITY VESTS**

The Department has provided American National Standards Institute (ANSI) Class II high-visibility vests to increase the visibility of department members who may be exposed to hazards presented

## *Traffic Function and Responsibility*

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by passing traffic, maneuvering or operating vehicles, machinery and equipment (23 CFR 655.601; 8 CCR 1598).

Although intended primarily for use while performing traffic related assignments, high-visibility vests should be worn at any time increased visibility would improve the safety or efficiency of the member.

### 500.5.1 REQUIRED USE

Except when working in a potentially adversarial or confrontational role, such as during vehicle stops, high-visibility vests should be worn at any time it is anticipated that an employee will be exposed to the hazards of approaching traffic or construction and recovery equipment. Examples of when high-visibility vests should be worn include traffic control duties, accident investigations, lane closures and while at disaster scenes, or anytime high visibility is desirable. When emergency conditions preclude the immediate donning of the vest, officers should retrieve and wear the vest as soon as conditions reasonably permit. Use of the vests shall also be mandatory when directed by a supervisor.

Vests maintained in the investigation units may be used any time a plainclothes officer might benefit from being readily identified as a member of law enforcement.

### 500.5.2 CARE AND STORAGE OF HIGH-VISIBILITY VESTS

High-visibility vests shall be maintained in the trunk of each patrol and investigation unit, in the side box of each police motorcycle and in the saddlebag or gear bag of each police bicycle. Each vest should be stored inside the re-sealable plastic bag provided to protect and maintain the vest in a serviceable condition. Before going into service each employee shall ensure a serviceable high-visibility vest is properly stored.

A supply of high-visibility vests will be maintained in the equipment room for replacement of damaged or unserviceable vests. The Personnel and Training Lieutenant should be promptly notified whenever the supply of vests in the equipment room needs replenishing.

## Traffic Motorcycle Units

### 501.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines and responsibilities for those members of the Palo Alto Police Department Traffic Division assigned as Traffic Motorcycle Officers.

#### 501.1.1 ENFORCEMENT

Citations shall be issued in accordance with Policy Manual §500.3. In accordance with the Palo Alto Police Department's Community Policing philosophy, motor officers may work with specific community groups, individuals, outside agencies and other City divisions to identify problem traffic locations and problems. Motor officers will seek to find long term solutions to these problems. Specialized enforcement may be a component of these community policing solutions.

#### 501.1.2 FREEWAYS

Unless directed by a supervisor, motorcycle officers are discouraged from routinely patrolling freeways for the purpose of taking enforcement action.

### 501.2 TRAINING

All personnel selected for a motorcycle assignment must successfully pass a Department approved pre-training program, graduate from a POST certified motorcycle academy, pass a Department approved field training program, and continually display the ability to safely operate a police motorcycle. Additionally, motorcycle officers must possess a valid class M driver's license throughout the duration of their assignment.

The traffic team supervisor is responsible for ensuring that all motorcycle officers complete eight hours of quarterly training.

Failure to meet the performance standards or any of the aforementioned training will result, at the discretion of the Field Services Division Captain, remedial training and/or reassignment within the Traffic Division or the Patrol Division.

The traffic team supervisor will ensure that all pre-training, FTO training, and quarterly training is documented and that all training forms are submitted to the Personnel and Training Unit.

#### 501.2.1 RECERTIFICATION

Personnel that have left the motorcycle program for less than three years, will be evaluated by a POST certified motorcycle instructor and will be required to successfully pass a training plan authorized by the Field Services Division Captain. Personnel that have left the motorcycle program for a period greater than three years may be required to successfully complete the entire training program prior to re-assignment to the motor unit.

#### 501.2.2 SAFETY

Traffic officers will not operate a motorcycle without properly wearing an authorized helmet, high-top boots, gloves, non-mirrored sunglasses, and an authorized uniform.



## *Traffic Motorcycle Units*

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Motorcycle officers will not routinely drive on sidewalks or on unpaved surfaces unless required at a special event, during authorized training or unless directed by a traffic supervisor for a specific purpose and time period. Traffic officers may stop or park in red zones and other restricted areas while monitoring roadways for traffic violations if they do not create an unreasonable risk for the safety of the officer or the public.

### **501.3 UPKEEP AND MAINTENANCE**

In accordance with the guidelines of the Federal Fair Labor and Standards Act (FLSA); the Traffic Division Supervisor shall insure that each officer assigned a motorcycle is provided ample time on duty weekly to maintain his/her motorcycle in a clean, serviceable condition. Such on duty cleaning and maintenance time may be provided at the beginning or end of the shift at the discretion of the Traffic Division Supervisor. Overtime is not authorized for the maintenance and upkeep of motorcycles without prior supervisory approval in accordance with Policy Manual §1038.

#### **501.3.1 RESPONSIBILITIES**

Each motorcycle officer is responsible for:

- (a) Daily check of tire wear and proper tire inflation;
- (b) Daily checks of lighting and emergency systems;
- (c) Adequate lubrication and routine servicing;
- (d) Weekly check of proper oil level in the transmission and oil reservoir;
- (e) Weekly cleaning of the motorcycle while on-duty;
- (f) Immediate notification to a traffic supervisor and City mechanic of any suspected mechanical or safety problem with the motorcycle;
- (g) Motorcycles shall not be modified from the original specifications and no parts or accessories will be removed, added, or changed, except for routine maintenance, without the written approval of the Traffic Lieutenant.

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## Traffic Collision Reporting

### 502.1 PURPOSE AND SCOPE

The Palo Alto Police Department prepares traffic collision reports in compliance with the California Highway Patrol Collision Investigation Manual (CIM) and as a public service makes traffic collision reports available to the community with some exceptions.

### 502.2 RESPONSIBILITY

The Traffic Lieutenant will be responsible for distribution of the Collision Investigation Manual. The Traffic Lieutenant will receive all changes in the state manual and ensure conformity with this policy.

### 502.3 TRAFFIC COLLISION REPORTING

It shall be the policy of the Palo Alto Police Department to respond to all collisions which occur in the City of Palo Alto, unless they fall under private property exemptions or meet the criteria for a counter report. Police personnel shall not attempt to discourage parties involved in collisions from making traffic collision reports. This policy designates the conditions for which collision documentation shall occur.

When facts and circumstances are of such a substantive nature as to lead to a reasonable articulable basis for establishing a violation, a Notice to Appear under the authority of Vehicle Code §40600 may be issued.

The provisions of the California Highway Patrol Collision Investigation Manual shall be utilized as a guide during the investigation of all traffic collisions that occur within the City of Palo Alto.

#### 502.3.1 PROCEDURE

Traffic Collisions which fall into the following categories will be documented as an "Investigation":

- (a) **Fatality:** A motor vehicle collision which results in the death of a person, on or off the highway;
- (b) **Major Injury:** A motor vehicle collision which results in severe injury, as defined by the CIM. A report may be taken at the discretion of the on-duty supervisor, when the injury does not require hospitalization;
- (c) **Vehicle Code § 20001:** An involved party is in violation of section 20001 of the California Vehicle Code;
- (d) **Vehicle Code § 20002:** An involved party is in violation of section 20002 of the California Vehicle Code and sufficient information is available to warrant follow-up and/or prosecution. A minor damage 20002 may be documented as a Report (555) with prior supervisory approval;
- (e) **When directed by a supervisor.**

## Traffic Collision Reporting

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### 502.3.2 INVESTIGATION FORMAT (CHP 556):

Traffic Collisions completed under the above conditions shall be documented as an Investigation (CHP 556). The format to be used for Investigations shall be as follows:

(a) **Facts**

1. **Notification;**
2. **Scene;**
3. **Parties;**
4. **Physical Evidence;**
5. **Hit & Run** (if applicable);
6. **Hazardous Material** (if applicable);
7. **Other.**

(b) **Statements**

(c) **Opinions and Conclusions**

1. **Area of Impact** (AOI);
2. **Intoxication** (if 909A not used);
3. **Cause**

(d) **Recommendation.**

### 502.3.3 REPORTS (CHP 555)

Traffic Collisions which fall into the following categories will be documented as a "Report":

- (a) **Minor Injury:** A motor vehicle collision which results in minor injury or complaint of pain;
- (b) **Damage to Public Property:** A motor vehicle collision which results in damage to State, County, or City property. A "Damage to City Property" report shall accompany any collision involving a City vehicle or City property;
- (c) **Specific Vehicle Code Violations:** A motor vehicle collision in which an involved party is in violation of Vehicle Code §§:
  1. 2800.1;
  2. 12500(a);
  3. 14601;
  4. 23103;
  5. 23109 and/or;
  6. 23152.

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### Traffic Collision Reporting

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- (d) **Major Vehicle Damage:** A motor vehicle collision which results in major damage to any vehicle requiring the vehicle to be towed. This does not include damaged radiators or fenders bent onto tires.
- (e) **Property Damage:** All other property damage collisions, except those exceptions that are listed in this policy, will be documented as a "Report".
- (f) **When directed by a supervisor.**

#### 502.3.4 REPORT FORMAT (CHP 555)

Traffic Collisions completed under the above conditions shall be documented as a Standard Report (CHP 555). The format to be used for the Standard Report shall be as follows:

- (a) **Summary:** The officer should give his/her opinion of what took place, explaining how the collision occurred. This information should include:
  - 1. The vehicle direction of travel, the lane of travel, and the approximate speed of the involved vehicles, etc.;
  - 2. The action of the drivers that contributed to the collision;
  - 3. The point of impact and a brief explanation of the supporting evidence.
- (b) **Statements:** When issuing a Notice of Violation or requesting a complaint;
- (c) **Cause:** The officer should explain why the collision occurred by indicating the driver responsible and the act and/or violation which caused the collision (primary collision factor);
- (d) **Recommendation:** This should be given when appropriate for requesting a complaint or issuing a Notice to Appear.

#### 502.3.5 PROPERTY DAMAGE ONLY REPORT (EXCHANGE OF INFORMATION REPORT CHP 555-03)

Form CHP 555-03 should be completed under the following circumstances:

- (a) Property Damage Only (PDO) collisions involving one or two vehicles, without injuries or fatalities, and no prosecution of an infraction, misdemeanor or felony is anticipated;
- (b) Form CHP 555-03 should not be used when the following conditions are present:
  - 1. More than two vehicles are involved;
  - 2. City vehicles or City property is involved;
  - 3. Potential City liability exists;
  - 4. Hazardous material spills are involved;
  - 5. Hazardous mechanical violation(s) are identified as a contributing factor to the collision (i.e., defective brakes, inoperative brake lamps etc);
  - 6. A qualified Commercial Vehicle (as listed in Policy Manual §502.39) is involved;

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7. Major vehicle damage to either vehicle, as defined in Policy Manual §502.39.

#### 502.3.6 PROPERTY DAMAGE ONLY (PDO) REPORT FORMAT

- (a) A case number shall be obtained, the Primary Collision Factor should be determined, and the specific location and the directions of travel of the involved vehicles should be documented;
- (b) The insurance information should be obtained and noted on the report;
- (c) The report should be separated and copies should be provided to the involved parties;
- (d) The bottom portion of the report should be completed and a short narrative (Summary/Cause) should be written of how the accident occurred on the back of page 1. No recommendation is to be made;

This 555-03 report procedure will apply equally to adults and juveniles. 555-03 reports will not be sent to the Statewide Integrated Traffic Reporting System (SWITRS). Copies of the 555-03 serve as the driver's report for insurance purposes. Page 1 of all 555-03 reports will be maintained in the Police Department's Records Division for public access.

#### 502.3.7 COUNTER REPORTS

Reports will be taken at the counter when collisions involve parties who have left the scene but desire a police report. Civilian Police employees will obtain a case number from Communications and have the reporting parties fill out a Driver's Report of Traffic Collision.

- (a) A counter report will be taken if there is a violation of Vehicle Code § 20002 and there is insufficient information to warrant follow-up.
- (b) An officer will respond to the Police Counter and take a report (555/556) under the following conditions:
  1. Hit and run reports where there is sufficient information for follow-up;
  2. Traffic Collisions with injury or complaint of pain resulting at the time of the collision.
- (c) Civilian employees will not list a determination of fault per California Vehicle Code § 20015.

#### 502.3.8 COMMERCIAL VEHICLES

- (a) Form CHP 555D will be filled out for each qualified vehicle and attached to a collision report when:
  1. One or more qualified vehicles was involved, and;
  2. One or more qualified injuries was sustained, or;
  3. One or more vehicles was towed from the scene, or;
  4. One or more vehicles was provided assistance.
- (b) A qualified vehicle is defined as:

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1. A vehicle with a GVWR (gross vehicle weight rating) of 10,001 pounds or more and has a DOT (Department of Transportation) number;
  2. Any vehicle displaying a hazardous material placard;
  3. Buses designed to carry more than 10 people, not including the driver.
- (c) A qualified injury is defined as:
1. Any injury severe enough for the injured person to require transportation from the scene for immediate medical attention, or a fatality.
- (d) Provided assistance is defined as:
1. Any assistance provided by Police, Fire, or Tow Company personnel to get the vehicle from the scene. This does not include assistance to change a flat tire.

#### **502.4 REPORTING SITUATIONS**

##### **502.4.1 TRAFFIC COLLISIONS INVOLVING CITY VEHICLES**

Traffic collision investigation reports shall be taken when a City-owned vehicle is involved in a traffic collision upon a roadway or highway wherein any damage or injury results. A general information report may be taken in lieu of a traffic collision report (CHP 555 form) at the direction of a supervisor when the collision occurs on private property or does not involve another vehicle. Whenever there is damage to a City vehicle, a Vehicle Damage Report shall be completed and forwarded to the appropriate Division Captain.

Photographs of the collision scene and vehicle damage shall be taken at the discretion of the traffic investigator or any supervisor.

##### **502.4.2 TRAFFIC COLLISIONS WITH POLICE DEPARTMENT EMPLOYEES**

When an employee of this department, either on-duty or off-duty, is involved in a traffic collision within the jurisdiction of the Palo Alto Police Department resulting in a serious injury or fatality, the Traffic Lieutenant or the Watch Commander, may notify the California Highway Patrol for assistance.

The term serious injury is defined as any injury that may result in a fatality.

##### **502.4.3 TRAFFIC COLLISIONS WITH OTHER CITY EMPLOYEES OR OFFICIALS**

The Traffic Lieutenant or on-duty Watch Commander may request assistance from the California Highway Patrol for the investigation of any traffic collision involving any City official or employee where a serious injury or fatality has occurred.

##### **502.4.4 TRAFFIC COLLISIONS ON PRIVATE PROPERTY**

Traffic Collisions occurring on private property shall be investigated as an "Investigation" as listed in Policy Manual § 502.33:

- (a) If there is a fatality or an injury which requires transportation to a hospital;

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- (b) If there is a violation of Vehicle Code § 20001 and/or sufficient information is available to warrant follow-up and/or prosecution;

Traffic collisions occurring on private property shall be investigated as a "Report" as listed in Policy Manual § 502.34;

- (a) If there is an injury not requiring transportation to a hospital;
- (b) All other private property collisions require no police report.

#### **502.4.5 TRAFFIC COLLISIONS ON ROADWAYS OR HIGHWAYS**

Traffic collision reports shall be taken when they occur on a roadway or highway within the jurisdiction of this department under any of the following circumstances:

- (a) When there is a death or injury to any persons involved in the collision
- (b) When there is an identifiable violation of the Vehicle Code
- (c) When a report is requested by any involved driver

#### **502.5 NOTIFICATION OF TRAFFIC BUREAU SUPERVISION**

In the event of a traffic collision involving a serious injury and/or death, the Watch Commander shall notify the Traffic Division Lieutenant, or in his or her absence, the Traffic Division Sergeant, to relate the circumstances of the traffic collision and seek assistance from the Traffic Division. In the absence of the Traffic Division Lieutenant, the Watch Commander or any supervisor may assign a Specialized Traffic Accident Reconstruction (STAR) Team member or motor officer to investigate the traffic collision.

#### **502.6 FATAL TRAFFIC COLLISION INVESTIGATION**

The investigation of fatal traffic collisions has become a complex and highly technical field. It is the desire of the Palo Alto Police Department to train officers in the investigation of traffic collisions and reconstruction so they can best determine the cause of collisions and provide expert evidence for prosecution when necessary.

##### **502.6.1 POLICY**

It shall be the policy of the Palo Alto Police Department to insure quality investigation by training and maintaining the Specialized Traffic Accident Reconstruction (STAR) Team. The STAR Team may be called to aid in the investigation to determine the cause of a collision and make recommendations based upon their findings.

The role of the STAR Team is to provide their expertise at the scene of a major traffic collision. They will act as a resource in the analysis, measurement, calculation of physical evidence needed to determine speed, area(s) of impact, and to give advice in investigative procedures. The team members shall diagram the scene and provide support to the investigation as directed by the scene supervisor. Unless relieved of responsibility, the patrol officer(s) shall maintain responsibility of the investigation with assistance from the STAR Team members.

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### 502.6.2 TEAM COMPOSITION AND TRAINING

The members of the STAR Team shall consist of one supervisor, and officers or agents who have successfully completed the required training. The Traffic Lieutenant will act as the coordinator for the team and will select a team supervisor. The length of service on the team will be determined by the Traffic Lieutenant.

Each member shall attend the below listed training courses and maintain their expertise by quarterly training meetings:

- (a) Basic Investigation 40600 CVC course (40 hours);
- (b) Intermediate Accident Investigation (40 hours);
- (c) Advanced Accident Investigation (80 hours);
- (d) Reconstruction School (80 hours);

### 502.6.3 CALL-UP PROCEDURES

- (a) Roster:
  - 1. Communications shall have a current roster of all STAR Team members, their addresses, home telephone numbers, and shift assignments.
- (b) Notification and Coordination:
  - 1. The on-duty supervisor shall notify the STAR Team in cases of fatal or major injury collisions. The team may be used in the event of a collision of unusual circumstance, for example, City liability, or involved City personnel.
- (c) Call-up: Communications shall maintain a call-up list of the STAR Team members and at the direction of the on-duty supervisor, shall be responsible for calling members back to duty. On-duty members will be called via radio by the supervisor.
  - 1. The STAR Team supervisor will be called to assign the required number of off-duty members;
  - 2. The Field Services Division Captain shall always be apprised of the incident.

### 502.6.4 INVESTIGATION PROCEDURE

- (a) Field Services Division: The officer assigned to investigate the collision shall be responsible for immediately preserving the scene and notifying his/her supervisor. The officer shall write the collision report according to the traffic collision investigation policy;
- (b) STAR Team: Members shall respond and make a factual diagram and proceed with post collision follow-up. They will provide additional resources for the scene investigation and report to the scene supervisor.

## **502.7 OFFICER INVOLVED TRAFFIC COLLISIONS**



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#### 502.7.1 POLICY

To insure impartiality in the investigation of on-duty officer involved traffic collisions, an outside jurisdiction shall investigate most traffic collisions when an officer is involved with a private individual. The intent of this policy is to insure that an objective investigation is conducted and to avoid possible conflict of interest allegations. Personnel from this Department are expected to be cooperative and to provide needed assistance to the agency conducting the investigation.

#### 502.7.2 PROCEDURE

**Major Injury Collisions** "" All major injury collisions will be reported immediately to the on-duty supervisor and watch commander. The California Highway Patrol shall be requested to investigate all major injury accidents.

**Minor/Moderate Injury Collisions** - All injury collisions will be reported immediately to the on-duty supervisor and watch commander. The Mountain View Police Department shall be requested to investigate all injury accidents that are minor/moderate in nature.

**Non-injury Collisions** "" All non-injury collisions will be reported immediately to the on-duty supervisor. The on-duty supervisor or watch commander shall assign an uninvolved Palo Alto Police Officer to take the report. In the event of disagreement over who is at fault or a DUI driver, the on-duty supervisor or watch commander may request the Mountain View Police Department respond to investigate the collision.

#### 502.7.3 INTERNAL INVESTIGATION

**Report of Property Damage/Loss** - All traffic collisions involving City property shall be documented with the City of Palo Alto "Report of Property Damage/Loss" form. The on-duty supervisor will review the actions of the employee and determine if the collision was "preventable" or "non-preventable."

**Private Vehicles** - When involved in a traffic collision with a private vehicle, it is necessary to complete a "Damage to City Property" form and obtain the involved parties insurance information. It is also necessary to obtain photographs of any and all damage to private property, private vehicles, and to City vehicles involved in these collisions to aid the City Risk Manager in their job.

**Supervisor Responsibilities** - The investigating supervisor will write a memorandum to his/her manager indicating findings, the employee's collision history and recommended action to be taken with the employee.

**Corrective Action** - If the traffic collision was preventable, the supervisor will determine if/when the employee had other preventable collisions in the past. Depending on the circumstances, at minimum, the supervisor will issue a corrective memorandum (for evaluation and documentation purposes). A written reprimand or suspension from duty without pay (or more severe discipline) may be applicable in repetitive or serious cases.

**Personnel and Training Master File** - Personnel and Training will maintain a master "Traffic Collisions" file. Copies of the traffic collision related documents will be routed to Personnel and

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Training via the respective Division Captain/Coordinator. Accidents will also be tracked via the IA PRO computer management system.

**Driving Instructor** - A Department Driving Instructor will review the traffic collision investigation/report in order to develop a training plan for the involved employee, if necessary.

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## Vehicle Towing and Release

### 510.1 PURPOSE AND SCOPE

This policy provides the procedures for towing a vehicle by or at the direction of the Palo Alto Police Department. Nothing in this policy shall require the Department to tow a vehicle.

### 510.2 STORAGE AND IMPOUNDS

When circumstances permit, for example when towing a vehicle for parking or registration violations, the handling employee should, prior to having the vehicle towed, make a good faith effort to notify the owner of the vehicle that it is subject to removal. This may be accomplished by personal contact, telephone or by leaving a notice attached to the vehicle at least 24 hours prior to removal. If a vehicle presents a hazard, such as being abandoned on the roadway, it may be towed immediately.

The responsibilities of those employees towing, storing or impounding a vehicle are listed below.

#### 510.2.1 VEHICLE STORAGE REPORT

Department members requesting towing, storage or impound of a vehicle shall complete CHP Form 180 and accurately record the mileage and a description of property within the vehicle (Vehicle Code § 22850). A copy of the storage report should to be given to the tow truck operator and the original shall be submitted to the Technical Services Division as soon as practicable after the vehicle is stored.

#### 510.2.2 REMOVAL FROM TRAFFIC COLLISION SCENES

When a vehicle has been involved in a traffic collision and must be removed from the scene, the officer shall have the driver select a towing company, if possible, and shall relay the request for the specified towing company to the dispatcher. When there is no preferred company requested, a company will be selected from the rotational list of towing companies in the Communications Center.

If the owner is incapacitated, or for any reason it is necessary for the Department to assume responsibility for a vehicle involved in a collision, the officer shall request the dispatcher to call the official towing garage for the City of Palo Alto. The officer will then store the vehicle using a CHP Form 180.

#### 510.2.3 STORAGE AT ARREST SCENES

Whenever a person in charge or in control of a vehicle is arrested, it is the policy of this department to provide reasonable safekeeping by storing the arrestee's vehicle subject to the exceptions described below. The vehicle, however, shall be stored whenever it is needed for the furtherance of the investigation or prosecution of the case, or when the community caretaker doctrine would reasonably suggest that the vehicle should be stored (e.g., traffic hazard, high crime area).

The vehicle should be towed pursuant Vehicle Code § 22651(h) if the vehicle is unlawfully parked, could pose a traffic hazard to other vehicles. A notation articulating your reason for the tow will

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be made on the CHP 180. The following are examples of situations where consideration should be given to leaving a vehicle at the scene in lieu of storing, provided the vehicle can be lawfully parked and left in a reasonably secured and safe condition:

- Traffic related warrant arrest.
- Situations where the vehicle was not used to further the offense for which the driver was arrested.
- Whenever the licensed owner of the vehicle is present, willing, and able to take control of any vehicle not involved in criminal activity.
- Whenever the vehicle otherwise does not need to be stored and the owner requests that it be left at the scene. In such cases the owner shall be informed that the Department will not be responsible for theft or damages.
- The driver shall sign the Palo Alto Police Department waiver form, which will be included in any applicable reports. If the driver refuses to sign the waiver, a notation will be made in the arrest report.

#### 510.2.4 IMPOUNDMENT AT SOBRIETY CHECKPOINTS

Whenever a driver is stopped at a sobriety checkpoint and the only violation is that the operator is driving without a valid driver's license, the officer shall make a reasonable attempt to identify the registered owner of the vehicle (Vehicle Code § 2814.2). The officer shall release the vehicle to the registered owner if the person is a licensed driver, or to another licensed driver authorized by the registered owner, provided the vehicle is claimed prior to the conclusion of the checkpoint operation.

If the vehicle is released at the checkpoint, the officer shall list on his/her copy of the notice to appear the name and driver's license number of the person to whom the vehicle is released.

When a vehicle cannot be released at the checkpoint, it shall be towed (Vehicle Code § 22651(p)). When a vehicle is removed at the checkpoint, it shall be released during the normal business hours of the storage facility to the registered owner or his/her agent upon presentation of a valid driver's license and current vehicle registration.

#### 510.2.5 DRIVING A NON-CITY VEHICLE

Vehicles which have been towed by or at the direction of the Department should not be driven by police personnel unless it is necessary to move a vehicle a short distance to eliminate a hazard, prevent the obstruction of a fire hydrant or to comply with posted signs.

#### 510.2.6 DISPATCHER'S RESPONSIBILITIES

Upon receiving a request for towing, the dispatcher shall promptly telephone the specified authorized towing service. The officer shall be advised when the request has been made and the towing service has been dispatched.

## *Vehicle Towing and Release*

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When there is no preferred company requested, the dispatcher shall call the next firm in rotation from the list of approved towing companies and shall make appropriate entries on that form to ensure the following firm is called on the next request.

### **510.2.7 TECHNICAL SERVICES DIVISION RESPONSIBILITY**

Records personnel shall promptly enter pertinent data from the completed storage form (CHP Form 180) into the Stolen Vehicle System and return the form to the Watch Commander for approval (Vehicle Code § 22651.5(b); Vehicle Code § 22851.3(b); Vehicle Code § 22854.5).

Approved storage forms shall be promptly placed into the auto-file so that they are immediately available for release or review should inquiries be made.

Within 48 hours, excluding weekends and holidays, of the storage of any such vehicle it shall be the responsibility of the Technical Services Division to determine the names and addresses of any individuals having an interest in the vehicle through DMV or CLETS computers. Notice shall be sent to all such individuals by first-class mail (Vehicle Code § 22851.3(d); Vehicle Code § 22852(a); Vehicle Code § 14602.6(a)(2)). The notice shall include the following (Vehicle Code § 22852(b)):

- (a) The name, address, and telephone number of this Department.
- (b) The location of the place of storage and description of the vehicle, which shall include, if available, the name or make, the manufacturer, the license plate number, and the mileage.
- (c) The authority and purpose for the removal of the vehicle.
- (d) A statement that, in order to receive their post-storage hearing, the owners, or their agents, shall request the hearing in person, writing, or by telephone within 10 days of the date appearing on the notice.

### **510.3 TOWING SERVICES**

The City of Palo Alto periodically selects a firm to act as the official tow service and awards a contract to that firm. This firm will be used in the following situations:

- (a) When it is necessary to safeguard a vehicle due to the inability of the owner or operator to take the required action.
- (b) When a vehicle is being held as evidence in connection with an investigation.
- (c) When it is otherwise necessary to store a motor vehicle. This would include situations involving the recovery of stolen or abandoned vehicles, and the removal from the streets of vehicles obstructing traffic in violation of state or local regulations.
- (d) When a citizen needs towing but has "no preference" as to which service to call

Officers are specifically prohibited from directly or indirectly soliciting for or recommending any garage or tow service.

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Any complaint alleging a violation of the agreement or other conduct by a "no preference" operator shall be referred to the Police Department for investigation. The Department may periodically review the performance of each authorized "No Preference" operator.

### **510.4 VEHICLE INVENTORY**

All property in a stored or impounded vehicle shall be inventoried and listed on the CHP 180. This includes the trunk and any compartments or containers, even if closed and/or locked. Members conducting inventory searches should be as thorough and accurate as practical in preparing an itemized inventory. These inventory procedures are for the purpose of protecting an owner's property while in police custody, to provide for the safety of officers, and to protect the Department against fraudulent claims of lost, stolen, or damaged property.

### **510.5 SECURITY OF VEHICLES AND PROPERTY**

Unless it would cause an unreasonable delay in the completion of a vehicle impound/storage or create an issue of officer safety, officers should make reasonable accommodations to permit a driver/owner to retrieve small items of value or personal need (e.g., cash, jewelry, cell phone, prescriptions) which are not considered evidence or contraband.

If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft or damage, personnel conducting the search shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property from such hazards.

### **510.6 RELEASE OF VEHICLE**

The Department will maintain a listed, 24-hour telephone number to provide information regarding impoundment of vehicles and the right of the registered owner to request a storage hearing. Releases for towed vehicles will be made available during regular, non-emergency business hours (Vehicle Code § 14602.6).

- (a) Vehicles removed pursuant to Vehicle Code § 22850 shall be released after proof of current registration is provided by the owner or the person in control of the vehicle and after all applicable fees are paid (Vehicle Code § 22850.3 and Vehicle Code § 22850.5).
- (b) Vehicles removed that require payment of parking fines or proof of valid driver's license shall only be released upon presentation of proof of compliance, proof of payment, completion of affidavit and payment of applicable fees related to the removal (Vehicle Code § 22651 et seq., Vehicle Code § 22652 et seq., Vehicle Code § 22850.3 and Vehicle Code § 22850.5).
- (c) A vehicle removed pursuant to Vehicle Code § 14602.6(a) shall be released to the registered owner or his/her agent with proof of current registration, proof of a valid driver's license and applicable fees paid prior to the end of the 30-day impoundment period if the vehicle was stolen, if the driver reinstates his/her driver's license, if the driver acquires a license and proper insurance, or under other circumstances as set forth in Vehicle Code § 14602.6.

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Personnel whose duties include releasing towed vehicles should consult the Vehicle Code under which the vehicle was towed or impounded for any specific requirements prior to release.

Employees who suspect that a vehicle was impounded in error should promptly advise a supervisor. Supervisors should approve, when appropriate, the release of the vehicle without requiring the registered owner or his/her agent to request a hearing, as described in the Vehicle Impound Hearings Policy.

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## Vehicle Storage/Impound Hearings

### 512.1 PURPOSE AND SCOPE

This policy establishes a procedure for the requirement to provide vehicle storage or impound hearings pursuant to Vehicle Code § 22852.

### 512.2 STORED OR IMPOUND HEARING

When a vehicle is stored or impounded by any member of the Palo Alto Police Department, a hearing will be conducted upon the request of the registered or legal owner of the vehicle or his/her agent (Vehicle Code §§ 22650(a) and 22852(a)).

The hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The hearing officer must be a person other than the person who directed the storage or impound of the vehicle (Vehicle Code § 22852(c)).

#### 512.2.1 HEARING PROCEDURES

The vehicle storage hearing is an informal process to evaluate the validity of an order to store or impound a vehicle. The employee who caused the storage or removal of the vehicle does not need to be present for this hearing.

All requests for a hearing on a stored or impounded vehicle shall be submitted in person, in writing or by telephone within 10 days of the date appearing on the notice (Vehicle Code § 22852(d)). The Traffic Sergeant will generally serve as the hearing officer.

The failure of either the registered or legal owner or interested person or his/her agent to request a hearing in a timely manner or to attend a scheduled hearing shall be considered a waiver of and satisfaction of the post-storage hearing requirement (Vehicle Code §§ 22851.3(e)(2) and 22852(d)).

Any relevant evidence may be submitted and reviewed by the hearing officer to determine if reasonable grounds have been established for the storage or impound of the vehicle. The initial burden of proof established by a preponderance of the evidence that the storage/impound was based on probable cause rests with the Department.

After consideration of all information, the hearing officer shall determine the validity of the storage or impound of the vehicle in question and then render a decision. The hearing officer shall also consider any mitigating circumstances attendant to the storage that reasonably would warrant the release of the vehicle or a modification or reduction of the period the vehicle is impounded (Vehicle Code §§14602.6(b) and 14602.8(b)).

Aside from those mitigating circumstances enumerated in the Vehicle Code, the registered owner's lack of actual knowledge that the driver to whom the vehicle was loaned was not validly licensed may constitute a mitigating circumstance under Vehicle Code §§ 14602.6(b) or 14608(b), warranting release of the vehicle. This mitigating circumstance exception is not limited to situations



## *Vehicle Storage/Impound Hearings*

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where the owner made a reasonable inquiry as to the licensed status of the driver before lending the vehicle.

The legislative intent and this department's policy is to prevent unlicensed driving pursuant to Vehicle Code §14602.6. If this purpose is not furthered by the continued impoundment of a vehicle, release is most often appropriate.

- (a) If a decision is made that reasonable grounds for storage or impound have been established, the hearing officer may advise the inquiring party of the decision and that the inquiring party may file a claim with the City Attorney's Office.
- (b) If mitigating circumstances are found to be relevant, the hearing officer shall make reasonable adjustments to the impound period, storage or assessment of fees as warranted.
- (c) If a decision is made that reasonable grounds for storage or impound have not been established or sufficient mitigating circumstances exist, the vehicle in storage shall be released immediately. Towing and storage fees will be paid at the Department's expense (Vehicle Code § 22852(e)).
- (d) If a decision is made that reasonable grounds for storage have not been established or sufficient mitigating circumstances exist, and the vehicle has been released with fees having been paid, the receipt for such fees will be forwarded with a letter to the appropriate Division Captain. The hearing officer will recommend to the appropriate Division Captain that the fees paid by the registered or legal owner of the vehicle in question or their agent be reimbursed by the Department.

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## Impaired Driving and Evidence Collection

### 514.1 PURPOSE AND SCOPE

This policy provides guidance to those department members who play a role in the detection and investigation of driving under the influence (DUI).

### 514.2 POLICY

The Palo Alto Police Department is committed to the safety of the roadways and the community and will pursue fair but aggressive enforcement of California's impaired driving laws.

### 514.3 INVESTIGATIONS

Officers should not enforce DUI laws to the exclusion of their other duties unless specifically assigned to DUI enforcement. All officers are expected to enforce these laws with due diligence.

### 514.4 FIELD TESTS

The Traffic Lieutenant should identify the primary field sobriety tests (FSTs) and any approved alternate tests for officers to use when investigating violations of DUI laws.

### 514.5 CHEMICAL TESTS

A person is deemed to have consented to a chemical test or tests under any of the following (Vehicle Code § 23612):

- (a) The person is arrested for driving a vehicle while under the influence, pursuant to Vehicle Code § 23152.
- (b) The person is under 21 years of age and is arrested by an officer having reasonable cause to believe that the person's blood alcohol content is 0.05 or more (Vehicle Code § 23140).
- (c) The person is under 21 years of age and detained by an officer having reasonable cause to believe that the person was driving a vehicle while having a blood alcohol content of 0.01 or more (Vehicle Code § 23136).
- (d) The person was operating a vehicle while under the influence and proximately caused bodily injury to another person (Vehicle Code § 23153).
- (e) The person is dead, unconscious or otherwise in a condition that renders him/her incapable of refusal (Vehicle Code § 23612(a)(5)).

#### 514.5.1 CHOICE OF TEST

A person arrested for DUI has the choice of whether the test is of his/her blood or breath, and the officer shall advise the person that he/she has that choice. If the person arrested either is incapable, or states that he/she is incapable, of completing the chosen test, the person shall submit to the remaining test.

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If the person chooses to submit to a breath test and there is reasonable cause to believe that the person is under the influence of a drug or the combined influence of alcohol and any drug, the officer may also request that the person submit to a blood test. If the person is incapable of completing a blood test, the person shall submit to and complete a urine test (Vehicle Code § 23612(a)(2)(C)).

### 514.5.2 BREATH TEST

The Traffic Lieutenant should ensure that all devices used for the collection and analysis of breath samples are properly serviced and tested and that a record of such service and testing is properly maintained.

Officers obtaining a breath sample should monitor the device for any sign of malfunction. Any anomalies or equipment failures should be noted in the appropriate report and promptly reported to the Traffic Lieutenant.

When the arrested person chooses a breath test, the handling officer shall advise the person that the breath-testing equipment does not retain a sample, and the person may, if desired, provide a blood or urine specimen, which will be retained to facilitate subsequent verification testing (Vehicle Code § 23614).

The officer should also require the person to submit to a blood test if the officer has a clear indication that a blood test will reveal evidence of any drug or the combined influence of an alcoholic beverage and any drug. Evidence of the officer's belief shall be included in the officer's report (Vehicle Code § 23612(a)(2)(C)).

### 514.5.3 BLOOD TEST

Only persons authorized by law to withdraw blood shall collect blood samples (Vehicle Code § 23158). The withdrawal of the blood sample should be witnessed by the assigned officer. No officer, even if properly certified, should conduct the blood withdrawal.

Officers should inform an arrestee that if he/she chooses to provide a blood sample, a separate sample can be drawn for alternate testing. Unless medical personnel object, two samples should be drawn and retained as evidence, so long as only one puncture is required.

If an arrestee cannot submit to a blood test because he/she is a hemophiliac or is using an anticoagulant, he/she shall not be required to take a blood test. Such inability to take a blood test should not be treated as a refusal. However, the person may be required to complete another available and viable test.

### 514.5.4 URINE TESTS

If a urine test will be performed, the person should be promptly transported to the appropriate testing site. The officer shall follow any directions accompanying the urine evidence collection kit.

Urine samples shall be collected and witnessed by an officer or jail staff of the same sex as the person giving the sample. The person tested should be allowed sufficient privacy to maintain his/

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her dignity, to the extent possible, while still ensuring the accuracy of the specimen (Vehicle Code § 23158(i)).

The collection kit shall be marked with the person's name, offense, Palo Alto Police Department case number and the name of the witnessing officer. The collection kit should be refrigerated pending transportation for testing.

### **514.6 REFUSALS**

When a person refuses to provide a viable chemical sample, officers should:

- (a) Advise the person of the requirement to provide a sample (Vehicle Code § 23612).
- (b) Audio-record the admonishment and the response if practicable.
- (c) Document the refusal in the appropriate report.

Upon refusal to submit to a chemical test as required by law, officers shall personally serve the notice of order of suspension upon the person and take possession of any state-issued license to operate a motor vehicle that is held by that person (Vehicle Code § 23612(e); Vehicle Code § 23612(f)).

#### **514.6.1 BLOOD SAMPLE WITHOUT CONSENT**

A blood sample may be obtained from a person who refuses a chemical test when any of the following conditions exist:

- (a) A search warrant has been obtained (Penal Code § 1524); or
- (b) The officer can articulate that exigent circumstances exist. Exigency does not exist solely because of the short time period associated with the natural dissipation of alcohol in the person's blood stream. Exigency can be established by the existence of special facts such as a lengthy delay in obtaining a blood sample due to an accident investigation or medical treatment of the person.

#### **514.6.2 FORCED BLOOD SAMPLE**

If a person indicates by word or action that he/she will physically resist a blood draw, the officer should request a supervisor to respond.

The responding supervisor should:

- (a) Evaluate whether using force to obtain a blood sample is appropriate under the circumstances.
- (b) Ensure that all attempts to obtain a blood sample through force cease if the person agrees to, and completes a viable form of testing in a timely manner.
- (c) Advise the person of his/her duty to provide a sample (even if this advisement was previously done by another officer) and attempt to persuade the person to submit to such a sample without physical resistance. This dialogue should be recorded on audio and/or video if practicable.

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- (d) Ensure that the withdrawal is taken in a medically approved manner.
- (e) Ensure the forced withdrawal is recorded on audio and/or video when practicable.
- (f) Monitor and ensure that the type and level of force applied is reasonable under the circumstances:
  - 1. Unless otherwise provided in a warrant, force should generally be limited to handcuffing or similar restraint methods.
  - 2. In misdemeanor cases, if the suspect becomes violent or more resistant, no additional force will be used and a refusal should be noted in the report.
  - 3. In felony cases, force which reasonably appears necessary to overcome the resistance to the blood being withdrawn may be permitted.
- (g) Ensure the use of force and methods used to accomplish the blood sample draw are documented in the related report.

If a supervisor is unavailable, officers are expected to use sound judgment and perform as a responding supervisor, as set forth above.

#### **514.7 ARREST AND INVESTIGATION**

##### **514.7.1 WARRANTLESS ARREST**

In addition to the arrest authority granted to officers pursuant to Penal Code § 836, an officer may make a warrantless arrest of a person that the officer has reasonable cause to believe has been driving under the influence of an alcoholic beverage or any drug, or under the combined influence of the same when (Vehicle Code § 40300.5):

- (a) The person is involved in a traffic accident.
- (b) The person is observed in or about a vehicle that is obstructing the roadway.
- (c) The person will not be apprehended unless immediately arrested.
- (d) The person may cause injury to him/herself or damage property unless immediately arrested.
- (e) The person may destroy or conceal evidence of a crime unless immediately arrested.

##### **514.7.2 STATUTORY WARNING**

An officer requesting that a person submit to chemical testing shall provide the person with the mandatory warning pursuant to Vehicle Code § 23612(a)(1)(D) and Vehicle Code § 23612(a)(4).

##### **514.7.3 PRELIMINARY ALCOHOL SCREENING**

Officers may use a preliminary alcohol screening (PAS) test to assist in establishing reasonable cause to believe a person is DUI. The officer shall advise the person that the PAS test is being requested to assist in determining whether the person is under the influence of alcohol or drugs, or a combination of the two. Unless the person is under the age of 21, he/she shall be advised

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that the PAS test is voluntary. The officer shall also advise the person that submitting to a PAS test does not satisfy his/her obligation to submit to a chemical test as otherwise required by law (Vehicle Code § 23612).

### 514.7.4 PRELIMINARY ALCOHOL SCREENING FOR MINORS

If an officer lawfully detains a person under 21 years of age who is driving a motor vehicle and the officer has reasonable cause to believe that the person has a blood alcohol content of 0.01 or more, the officer shall request that the person take a PAS test to determine the presence of alcohol in the person, if a PAS test device is immediately available. If a PAS test device is not immediately available, the officer may request the person to submit to chemical testing of his/her blood, breath or urine, conducted pursuant to Vehicle Code § 23612 (Vehicle Code § 13388).

If the person refuses to take or fails to complete the PAS test or other chemical test, or if the result of either test reveals a blood alcohol content of 0.01 or more, the officer shall proceed to serve the person with a notice of order of suspension pursuant to this policy (Vehicle Code § 13388).

### 514.7.5 OFFICER RESPONSIBILITIES

The officer serving the arrested person with a notice of an order of suspension shall immediately (Vehicle Code § 23612):

- (a) Forward a copy of the completed notice of suspension or revocation form and any confiscated driver's license to the Department of Motor Vehicles (DMV).
- (b) Forward a sworn report to DMV that contains the required information in Vehicle Code § 13380.
- (c) Forward the results to the appropriate forensic laboratory if the person submitted to a blood or urine test.

### 514.7.6 RELEASE OF ARRESTEE FOR DRUNK DRIVING

It is the policy of this Department to release subjects who have been arrested for misdemeanor drunk driving with a citation, unless one of the following exist:

- (a) The subject has a prior conviction for Vehicle Code § 23152;
- (b) The subject is suspected of being under the influence of a drug;
- (c) The supervisor deems it necessary to book the subject, however, a subject's level of intoxication or attitude is not solely a legitimate reason to book the subject.

### 514.7.7 CITATION PROCEDURE

If the arrestee is eligible for a citation, the officer is responsible for the following:

- (a) Once the officer and arrestee have arrived at the holding facility, the officer will attempt to contact a "responsible adult" who will agree to care for the arrestee once he/she is released from custody. The "responsible adult" will be requested to respond to the location specified within 30 minutes and sign a custodial agreement form. The officer has the discretion to determine whether the adult is to be considered "responsible" or not;

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- (b) In the case of a DUI arrest where the arrestee selects a breath test and the results are .08% or above, cite for two separate violations: CVC 23152 (a) and CVC 23152 (b). If results are under .08% or unknown, cite for CVC 23152(a) or, as appropriate, release per Penal Code 849 (b);
- (c) Complete the "Administrative Per Se" paperwork if appropriate;
- (d) Assign a court date at least 45 days after the date of the arrest;
- (e) Complete the Custodial Agreement Form obtaining the signature of the responsible adult and the arrested party;
- (f) Release the arrestee to the responsible party.

### **514.8 TECHNICAL SERVICES DIVISION RESPONSIBILITIES**

The Records Manager will ensure that all case-related records are transmitted according to current records procedures and as required by the prosecuting attorney's office.

### **514.9 ADMINISTRATIVE HEARINGS**

The supervisor will ensure that all appropriate reports and documents related to administrative license suspensions are reviewed and forwarded to DMV.

Officers called to testify at an administrative hearing should document the hearing date and DMV file number in a supplemental report. Specific details of the hearing generally should not be included in the report unless errors, additional evidence or witnesses are identified. The Technical Services Division should forward this to the Court Liaison as part of the case file.

### **514.10 TRAINING**

The Personnel and Training Lieutenant should ensure that officers participating in the enforcement of DUI laws receive regular training. Training should include, at minimum, current laws on impaired driving, investigative techniques and rules of evidence pertaining to DUI investigations. The Personnel and Training Lieutenant should confer with the prosecuting attorney's office and update training topics as needed.

## Traffic Citations

### 516.1 PURPOSE AND SCOPE

This policy outlines the responsibility for traffic citations, the procedure for dismissal, correction, and voiding of traffic citations.

### 516.2 RESPONSIBILITIES

The Traffic Lieutenant or his/her designee shall be responsible for the development and design of all Department traffic citations in compliance with state law and the Judicial Council, as well as the supply and accounting of all traffic citations issued to employees of this department.

### 516.3 DISMISSAL OF TRAFFIC CITATIONS

It is the policy of the Department for officers to not dismiss traffic citations without a valid reason. The only valid reason is when the citation has been written in error. If the officer has a valid reason to dismiss a citation, he/she should do the following:

- (a) Complete the dismissal of citation portion of the Traffic Court Notification Form;
- (b) Obtain his/her supervisor's approval and signature on the form;
- (c) The citation dismissal shall then be forwarded to the Field Services Division Captain for review
- (d) The Traffic Court Notification Form should be returned to the Court Liaison Officer as soon as possible.

Should an officer determine during a court proceeding that a traffic citation should be dismissed in the interest of justice or where prosecution is deemed inappropriate, the officer may request the court to dismiss the citation. Upon dismissal of the traffic citation by the court, the officer shall notify his/her immediate supervisor of the circumstances surrounding the dismissal and shall complete any paperwork as directed or required.

### 516.4 VOIDING TRAFFIC CITATIONS

Voiding a traffic citation may occur when a traffic citation has not been completed or where it is completed, but not issued. All copies of the citation shall be presented to a supervisor to approve the voiding of the citation. The citation and copies shall then be forwarded to the Traffic Division Supervisor.

### 516.5 CORRECTION OF TRAFFIC CITATIONS

When a traffic citation is issued and in need of correction, the officer issuing the citation shall submit the citation and a letter requesting a specific correction to his/her immediate supervisor. The citation and letter shall then be forwarded to the Court Liaison Officer. The Court Liaison Officer shall prepare a letter of correction to the court having jurisdiction and to the recipient of the citation.



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### **516.6 DISPOSITION OF TRAFFIC CITATIONS**

The court and file copies of all traffic citations issued by members of this department shall be forwarded to the employee's immediate supervisor for review. The citation copies shall then be filed with the Technical Services Division. Officers should retain their copy of the citation for at least three years.

Upon separation from employment with the this department, all employees issued traffic citations books shall return any unused citations to the Field Services Staff Assistant.

### **516.7 NOTICE OF PARKING VIOLATION APPEAL PROCEDURE**

Disposition of notice of parking violation appeals is conducted pursuant to Vehicle Code § 40215.

#### **516.7.1 APPEAL STAGES**

Appeals may be pursued sequentially at three different levels:

- (a) Administrative reviews are conducted by the Traffic Division who will review written/ documentary data. Requests for administrative reviews are available at the front desk of the Palo Alto Police Department. These requests are informal written statements outlining why the notice of parking violation should be dismissed. Copies of documentation relating to the notice of parking violation and the request for dismissal must be mailed to the current mailing address of the processing agency.
- (b) If the appellant wishes to pursue the matter beyond administrative review, an administrative hearing may be conducted in person or by written application, at the election of the appellant. Independent referees review the existent administrative file, amendments, and/ or testimonial material provided by the appellant and may conduct further investigation or follow-up on their own.
- (c) If the appellant wishes to pursue the matter beyond an administrative hearing, a Superior Court review may be presented in person by the appellant after an application for review and designated filing fees have been paid to The Superior Court of California.

#### **516.7.2 TIME REQUIREMENTS**

Administrative review or appearance before a hearing examiner will not be provided if the mandated time limits are not adhered to by the violator.

- (a) Requests for an administrative review must be postmarked within 21 calendar days of issuance of the notice of parking violation, or within 14 calendar days of the mailing of the Notice of Delinquent Parking (Violation Vehicle Code § 40215(a)).
- (b) Requests for administrative hearings must be made no later than 21 calendar days following the notification mailing of the results of the administrative review (Vehicle Code § 40215(b)).
- (c) An administrative hearing shall be held within 90 calendar days following the receipt of a request for an administrative hearing, excluding time tolled pursuant to Vehicle Code §

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40200 - 40225. The person requesting the hearing may request one continuance, not to exceed 21 calendar days (Vehicle Code § 40215).

- (d) Registered owners of vehicles may transfer responsibility for the violation via timely affidavit of non-liability when the vehicle has been transferred, rented or under certain other circumstances (Vehicle Code § 40209 and Vehicle Code § 40210).

### 516.7.3 COSTS

- (a) There is no cost for an administrative review.
- (b) Appellants must pay the full amount due for the citation, or provide satisfactory proof of their inability to pay, before receiving an administrative hearing.
- (c) An appeal through Superior Court requires prior payment of filing costs including applicable court charges and fees. These costs will be reimbursed to the appellant in addition to any previously paid fines if appellant's liability is overruled by the Superior Court.

### **516.8 JUVENILE CITATIONS**

The Records Unit will process all juvenile traffic citations. The Records Unit will retain the pink copy and the white copy of the citation will be forwarded to the Court Liaison Officer. The Court Liaison Officer will track all juvenile citations that are sent to the juvenile court.

#### 516.8.1 JUVENILE BICYCLE CITATIONS

The Records Unit will also process juvenile bicycle citations. The Records Unit will check the Records Management System to see if the citation is the juvenile's first violation. If it is the juvenile's first offense, the Records Unit will forward a copy of the original citation to the Traffic Division Secretary. All first offense juvenile bicycle violators will be eligible for the Fire Department's Bicycle Safety Course. The Traffic Division Secretary is responsible for tracking all citations that have been deferred to the Fire Department on a computerized database. The date the citation was issued and the date the citation was forwarded to the Fire Department will be noted along with the citation number and the juvenile's last name and first initial. The Traffic Division Secretary will forward all (first offense) juvenile bicycle citations to the Fire Department's Bicycle Safety Coordinator for disposition. The Traffic Division Secretary will also mail a letter to the juvenile violator advising him/her that the citation was forwarded to the Fire Department.

The Fire Department's Bicycle Safety Coordinator will advise the Traffic Division Secretary when a class was held and provide a list of the juveniles that attended the course. The Traffic Division Secretary's computerized database will be updated to indicate that the juvenile completed the course. The Traffic Division Secretary will then forward the information to the Records Unit so that RMS can be updated with the date the juvenile attended the class.

A juvenile is only eligible to attend the Bicycle Safety Course once within a year's period. Any citation received for the same juvenile within this time period will be forwarded to juvenile court by the Court Liaison Officer.

## *Traffic Citations*

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### **516.9 REFUSAL TO SIGN TRAFFIC CITATION**

When a violator refuses to sign the notice to appear, a supervisor shall be called to the location of the stop to assist in obtaining the violator's signature. If the violator continues to refuse to sign the notice to appear, or demands to be taken before a magistrate, he/she will be taken into custody.

Persons taken into custody under the authority of Vehicle Code § 40302(b)-refusal to sign citation, shall be afforded every opportunity permitted by law to sign the notice to appear and secure release. If at anytime during the course of the incident, but prior to the booking process the violator reconsiders and requests to sign the notice to appear, he/she shall be permitted to do so and shall be transported back to the location of the stop.

If the arrest occurs during court hours, the violator shall be taken to the North County clerk's office where an immediate appearance before a magistrate shall be arranged. The clerk's office shall be notified, by phone, prior to the officer's arrival. The violator may elect to post bail at the clerk's office, in lieu of an appearance before a magistrate.

If the arrest occurs outside of normal court hours, the violator shall be transported without delay to jail. Once the booking has begun, the violator is in the custody of the Santa Clara County Department of Corrections and can no longer be released by the arresting officer.

Under special circumstances (i.e. elderly, confused, disoriented or sick persons), the supervisor may direct the officer to release the violator and request a complaint to be filed. This should occur if a physical arrest would result in unnecessary alienation or injury to the violator and incarceration would serve no other useful purpose.

## Disabled Vehicles

### 520.1 PURPOSE AND SCOPE

Vehicle Code § 20018 provides that all law enforcement agencies having responsibility for traffic enforcement may develop and adopt a written policy to provide assistance to motorists in disabled vehicles within their primary jurisdiction.

### 520.2 OFFICER RESPONSIBILITY

When an on-duty officer observes a disabled vehicle on the roadway, the officer should make a reasonable effort to provide assistance. If that officer is assigned to a call of higher priority, the dispatcher should be advised of the location of the disabled vehicle and the need for assistance. The dispatcher should then assign another available officer to respond for assistance as soon as practical.

### 520.3 EXTENT OF ASSISTANCE

In most cases, a disabled motorist will require assistance. After arrangements for assistance are made, continued involvement by department personnel will be contingent on the time of day, the location, the availability of departmental resources, and the vulnerability of the disabled motorist.

#### 520.3.1 MECHANICAL REPAIRS

Department personnel shall not make mechanical repairs to a disabled vehicle. The use of push bumpers to relocate vehicles to a position of safety is not considered a mechanical repair.

### 520.4 PUBLIC ACCESS TO THIS POLICY

This written policy is available upon request.

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## 72-Hour Parking Violations

### 524.1 PURPOSE AND SCOPE

This policy provides procedures for the marking, recording, and storage of vehicles parked in violation of the Ordinance regulating 72-hour parking violations and abandoned vehicles under the authority of Vehicle Code § 22652.6 and 22669, and Palo Alto Municipal Code §10.36.030.

### 524.2 MARKING VEHICLES

Vehicles suspected of being in violation of the City of Palo Alto 72-Hour Parking Ordinance shall be marked and noted on the Palo Alto Police Department Marked Vehicle Card. No case number is required at this time.

A visible chalk mark should be placed on the left rear tire tread at the fender level unless missing tires or other vehicle conditions prevent marking. Any deviation in markings shall be noted on the Marked Vehicle Card. The investigating employee should make a good faith effort to notify the owner of any vehicle subject to towing prior to having the vehicle removed. This may be accomplished by personal contact, telephone or by leaving notice attached to the vehicle at least 24 hours prior to removal.

All Marked Vehicle Cards shall be submitted to the Traffic Bureau for computer data entry.

If a marked vehicle has been moved or the markings have been removed during a 72-hour investigation period, the vehicle shall be marked again for the 72-hour parking violation and a Marked Vehicle Card completed and forwarded to the Traffic Bureau.

Parking citations for the 72-hour parking ordinance can be issued when the vehicle is stored for the 72-hour parking violation.

#### 524.2.1 MARKED VEHICLE FILE

The Traffic Division shall be responsible for maintaining a file for all Abandoned Vehicle Forms.

Parking control officers assigned to the Traffic Division shall be responsible for the follow up investigation of all 72-hour parking violations noted on the Abandoned Vehicle Forms.

#### 524.2.2 VEHICLE STORAGE

Any vehicle in violation shall be stored by the authorized towing service and a vehicle storage report (CHP form 180) shall be completed by the officer authorizing the storage of the vehicle.

The storage report form shall be submitted to the Technical Services Division immediately following the storage of the vehicle. It shall be the responsibility of the Technical Services Division to immediately notify the Stolen Vehicle System (SVS) of the Department of Justice in Sacramento ( Vehicle Code § 22851.3(b)). Notification may also be made to the National Law Enforcement Telecommunications System (NLETS)(Vehicle Code § 22854.5).

Within 48 hours of the storage of any such vehicle, excluding weekends and holidays, it shall be the responsibility of the Technical Services Division to determine the names and addresses of any

## *72-Hour Parking Violations*

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individuals having an interest in the vehicle through DMV or CLETS computers. Notice to all such individuals shall be sent first-class or certified mail pursuant to Vehicle Code § 22851.3(d).

### **524.3 VEHICLE DISPOSAL**

If, after 15 days from the notification, the vehicle remains unclaimed and the towing and storage fees have not been paid, and if no request for a post storage hearing has been made, the Department may provide the lien holder storing the vehicle with authorization on an approved DMV form to dispose of any vehicle which the lien holder has determined has an estimated value of \$500 or less (Vehicle Code § 22851.3(h)).

## Chapter 6 - Investigation Operations

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## Investigation and Prosecution

### 600.1 PURPOSE AND SCOPE

When assigned to a case for initial or follow-up investigation, detectives shall proceed with due diligence in evaluating and preparing the case for appropriate clearance or presentation to a prosecutor for filing of criminal charges.

### 600.2 MODIFICATION OF CHARGES FILED

Employees are not authorized to recommend to the District Attorney, City Attorney, or to any other official of the court that charges on a pending case be altered or the case dismissed. In all cases resulting in court prosecution, any request to modify the charges filed or to recommend dismissal of charges in a pending case shall be made to the District Attorney's Office or City Attorney's Office only as authorized by a Division Captain or the Chief of Police.

### 600.3 CUSTODIAL INTERROGATION REQUIREMENTS

Any custodial interrogation of a person who is suspected of having committed any violent felony offense should be electronically recorded (audio/video or both as available) in its entirety as otherwise allowed by law. Regardless of where the interrogation occurs, every reasonable effort should be made to secure functional recording equipment to accomplish such recordings.

Officers should also consider electronically recording a custodial interrogation, or any investigative interview, for any other offense when the officer reasonably believes it would be appropriate and beneficial to the investigation and is otherwise allowed by law.

No recording of an interrogation should be destroyed or altered without written authorization from the District Attorney and the Investigative Services supervisor. Copies of recorded interrogations or interviews may be made in the same or different format provided they are true, accurate and complete copies and are made only for authorized and legitimate law enforcement purposes.

Officers should not allow the recording to take the place of a thorough report and investigative interviews and should continue to obtain written statements from suspects when applicable.

Santa Clara County Protocols Section 13 - Recording of Violent Suspect Statement Protocol shall be utilized as a guideline during the custodial interrogation of a person who is suspected of having committed any violent felony offense. All personnel are required to read and follow Santa Clara County Protocols Section 13 - Violent Suspect Statement Protocol.

#### 600.3.1 MANDATORY RECORDINGS OF JUVENILES

Any interrogation of an individual under 18 years of age who in custody and suspected of committing murder shall be audio and video recorded when the interview takes place at a department facility, jail, detention facility or other official setting. The recording shall include the entire interview and a *Miranda* advisement preceding the interrogation (Penal Code § 859.5).

This recording is not mandatory when (Penal Code § 859.5):



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## Policy Manual

### *Investigation and Prosecution*

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- (a) Recording is not feasible because of exigent circumstances that are later documented in a report.
- (b) The individual refuses to have the interrogation recorded, including refusal anytime during interrogation, and the refusal is documented in a report. If feasible, the refusal shall be electronically recorded.
- (c) The custodial interrogation took place in another state by law enforcement officers of that state, unless the interrogation was conducted with the intent to avoid the requirements of Penal Code § 859.5.
- (d) The interrogation occurs when no member conducting the interrogation has a reason to believe that the individual may have committed murder. Continued custodial interrogation concerning that offense shall be electronically recorded if the interrogating member develops a reason to believe the individual committed a murder.
- (e) The interrogation would disclose the identity of a confidential informant or jeopardize the safety of an officer, the individual being interrogated or another individual. Such circumstances shall be documented in a report.
- (f) A recording device fails despite reasonable maintenance and the timely repair or replacement was not feasible.
- (g) Questions are part of a routine processing or booking, and not an interrogation.

These recordings shall be retained until a conviction is final and all direct and habeas corpus appeals are exhausted, a court no longer has any jurisdiction of the individual or the prosecution for that offense is barred (Penal Code § 859.5; Welfare and Institution Code § 626.8).

## Sexual Assault Victims' DNA Rights

### 602.1 PURPOSE AND SCOPE

Consistent with Penal Code § 293 and the Sexual Assault Victims' DNA Bill of Rights (Penal Code § 680), this policy will establish a procedure by which sexual assault victims may inquire about and be provided with information regarding the status of any DNA evidence in their case, their right to confidentiality and other rights afforded by law.

### 602.2 INVESTIGATION CONSIDERATIONS

#### 602.2.1 VICTIM CONFIDENTIALITY

Officers investigating or receiving a report of an alleged sex offense shall inform the victim, or the victim's parent or guardian if the victim is a minor, that his/her name will become a matter of public record unless the victim requests that his/her name not be made public. The reporting officer shall document in his/her report that the victim was properly informed and shall include any related response made by the victim, or if a minor, any response made by the victim's parent or guardian (Penal Code 293 § (a) and (b)).

- (a) Except as authorized by law, members of this department shall not publicly disclose the name or address of any victim of a sex crime who has exercised his/her right to confidentiality (Penal Code § 293 (c) and (d)).

#### 602.2.2 OFFICER RESPONSIBILITY

Whenever there is an alleged violation of Penal Code §§ 243(e), 261, 261.5, 262, 273.5, 286, 288a, or 289, the assigned officer shall accomplish the following:

- (a) Immediately provide the victim with the "Victims of Domestic Violence" card containing the names and locations of rape victim counseling centers within the county and their 24-hour counseling service telephone numbers (Penal Code § 264.2(a)).
- (b) If victim is transported to a hospital for any medical evidentiary or physical examination the officer shall immediately cause the local rape victim counseling center to be notified (Penal Code § 264.2(b)(1)).
- (c) Give the victim Marcy's Card.
  - 1. Prior to any such examination the assigned officer shall ensure that the victim has been properly informed of their right to have a sexual assault victim counselor and at least one other support person present (Penal Code § 264.2(b)(2)).
  - 2. A support person may be excluded from the examination by the officer or the medical provider if their presence would be detrimental to the purpose of the examination (Penal Code § 264.2(b)(4)).

*Sexual Assault Victims' DNA Rights*

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**602.3 TESTING OF SEXUAL ASSAULT EVIDENCE**

- (a) Subject to available resources and other law enforcement considerations which may affect the ability to process and analyze rape kits or other sexual assault victim evidence and other crime scene evidence, any member of this department assigned to investigate a sexual assault offense (Penal Code §§ 261, 261.5, 262, 286, 288a or 289) should take every reasonable step to ensure that DNA testing of such evidence is performed in a timely manner and within the time periods prescribed by Penal Code § 803(g).
- (b) In order to maximize the effectiveness of such testing and identifying the perpetrator of any sexual assault, the assigned officer should further ensure that the results of any such test have been timely entered into and checked against both the Department of Justice Cal-DNA database and the Combined DNA Index System (CODIS).
- (c) If, for any reason, DNA evidence in a sexual assault case in which the identity of the perpetrator is in issue is not going to be analyzed within two years of the crime, the assigned officer shall notify the victim of such fact in writing within no less than 60 days prior to the expiration of the two-year period (Penal Code § 680(d)).

**602.4 VICTIM NOTIFICATION OF DNA STATUS**

- (a) Upon receipt of a written request from a sexual assault victim or the victim's authorized designee, the assigned officer may inform the victim of the status of the DNA testing of any evidence from the victim's case.
  - 1. Although such information may be communicated orally, the assigned officer should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.
  - 2. Absent a written request, no member of this department is required to, but may, communicate with the victim or victim's designee regarding the status of any DNA testing.
- (b) Subject to the commitment of sufficient resources to respond to requests for information, sexual assault victims shall further have the following rights:
  - 1. To be informed whether or not a DNA profile of the assailant was obtained from the testing of the rape kit or other crime scene evidence from their case.
  - 2. To be informed whether or not there is a match between the DNA profile of the assailant developed from the evidence and a DNA profile contained in the Department of Justice Convicted Offender DNA Database, providing that disclosure would not impede or compromise an ongoing investigation.
  - 3. To be informed whether or not the DNA profile of the assailant developed from the evidence has been entered into the Department of Justice Data Bank of case evidence.

## *Sexual Assault Victims' DNA Rights*

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- (c) Provided that the sexual assault victim or victim's designee has kept the assigned officer informed with regard to current address, telephone number and e-mail address (if available), any victim or victim's designee shall, upon request, be advised of any known significant changes regarding the victim's case.
1. Although such information may be communicated orally, the assigned officer should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.
  2. No officer shall be required to or expected to release any information which might impede or compromise any ongoing investigation.

### **602.5 DESTRUCTION OF EVIDENCE**

Any destruction of evidence related to a sexual assault shall occur only after victim notification is made as required pursuant to Penal Code § 680 and only in compliance with the Property and Evidence Policy.

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## Asset Forfeiture

### 606.1 PURPOSE AND SCOPE

This policy describes the authority and procedure for the seizure, forfeiture and liquidation of property associated with designated offenses.

#### 606.1.1 DEFINITIONS

Definitions related to this policy include:

**Fiscal agent** - The person designated by the Chief of Police to be responsible for securing and maintaining seized assets and distributing any proceeds realized from any forfeiture proceedings. This includes any time the Palo Alto Police Department seizes property for forfeiture or when the Palo Alto Police Department is acting as the fiscal agent pursuant to a multi-agency agreement.

**Forfeiture** - The process by which legal ownership of an asset is transferred to a government or other authority.

**Forfeiture reviewer** - The department member assigned by the Chief of Police who is responsible for reviewing all forfeiture cases and for acting as the liaison between the Department and the assigned attorney.

**Property subject to forfeiture** - The following may be subject to forfeiture:

- (a) Property related to a narcotics offense, which includes (Health and Safety Code § 11470; Health and Safety Code § 11470.1):
  1. Property (not including real property or vehicles) used, or intended for use, as a container for controlled substances, materials to manufacture controlled substances, etc.
  2. Interest in a vehicle (car, boat, airplane, other vehicle) used to facilitate the manufacture, possession for sale or sale of specified quantities of controlled substances.
  3. Money, negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance, proceeds traceable to an exchange, etc.
  4. Real property when the owner is convicted of violating Health and Safety Code § 11366, Health and Safety Code § 11366.5 or Health and Safety Code § 11366.6 (drug houses) when the property was not used as a family residence or for other lawful purposes, or property owned by two or more persons, one of whom had no knowledge of its unlawful use.
  5. The expenses of seizing, eradicating, destroying or taking remedial action with respect to any controlled substance or its precursors.

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## Policy Manual

### *Asset Forfeiture*

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- (b) Property related to criminal profiteering (may include gang crimes), to include (Penal Code § 186.2; Penal Code § 186.3):
  - 1. Any property interest, whether tangible or intangible, acquired through a pattern of criminal profiteering activity.
  - 2. All proceeds acquired through a pattern of criminal profiteering activity, including all things of value that may have been received in exchange for the proceeds immediately derived from the pattern of criminal profiteering activity.

**Seizure** - The act of law enforcement officials taking property, cash or assets that have been used in connection with or acquired by specified illegal activities.

#### **606.2 POLICY**

The Palo Alto Police Department recognizes that appropriately applied forfeiture laws are helpful to enforce the law, deter crime and reduce the economic incentive of crime. However, the potential for revenue should never compromise the effective investigation of criminal offenses, officer safety or any person's due process rights.

It is the policy of the Palo Alto Police Department that all members, including those assigned to internal or external law enforcement task force operations, shall comply with all state and federal laws pertaining to forfeiture.

#### **606.3 ASSET SEIZURE**

Property may be seized for forfeiture as provided in this policy.

##### **606.3.1 PROPERTY SUBJECT TO SEIZURE**

The following may be seized upon review and approval of a supervisor and in coordination with the forfeiture reviewer:

- (a) Property subject to forfeiture authorized for seizure under the authority of a search warrant or court order.
- (b) Property subject to forfeiture not authorized for seizure under the authority of a search warrant or court order when any of the following apply (Health and Safety Code § 11471; Health and Safety Code § 11488):
  - 1. The property subject to forfeiture is legally seized incident to an arrest.
  - 2. There is probable cause to believe that the property was used or is intended to be used in a violation of the Uniform Controlled Substances Act and the seizing officer can articulate a nexus between the property and the controlled substance offense that would lead to the item being property subject for forfeiture.

Officers aware of assets that may be forfeitable as a result of criminal profiteering or human trafficking should consider contacting the district attorney regarding a court order to protect the assets (Penal Code § 186.6; Penal Code § 236.6).

## *Asset Forfeiture*

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Whenever practicable, a search warrant or court order for seizure prior to making a seizure is the preferred method.

A large amount of money standing alone is insufficient to establish the probable cause required to make a seizure.

### 606.3.2 PROPERTY NOT SUBJECT TO SEIZURE

The following property should not be seized for forfeiture:

- (a) Cash and property that does not meet the forfeiture counsel's current minimum forfeiture thresholds should not be seized.
- (b) Real property is not subject to seizure, absent exigent circumstances, without a court order (Health and Safety Code § 11471).
- (c) A vehicle which may be lawfully driven on the highway if there is a community property interest in the vehicle by a person other than the suspect and the vehicle is the sole vehicle available to the suspect's immediate family (Health and Safety Code § 11470A).
- (d) Vehicles, boats or airplanes owned by an #innocent owner,# such as a common carrier with no knowledge of the suspected offense (Health and Safety Code § 11490).

### 606.4 PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS

When property or cash subject to this policy is seized, the officer making the seizure should ensure compliance with the following:

- (a) Complete applicable seizure forms and present the appropriate copy to the person from whom the property is seized. If cash or property is seized from more than one person, a separate copy must be provided to each person, specifying the items seized. When property is seized and no one claims an interest in the property, the officer must leave the copy in the place where the property was found, if it is reasonable to do so.
- (b) Complete and submit a report and original seizure forms within 24 hours of the seizure, if practicable.
- (c) Forward the original seizure forms and related reports to the forfeiture reviewer within two days of seizure.

The officer will book seized property as evidence with the notation in the comment section of the property form, #Seized Subject to Forfeiture.# Property seized subject to forfeiture should be booked on a separate property form. No other evidence from the case should be booked on this form.

Photographs should be taken of items seized, particularly cash, jewelry and other valuable items.

Officers who suspect property may be subject to seizure but are not able to seize the property (e.g., the property is located elsewhere, the whereabouts of the property is unknown, it is real estate, bank accounts, non-tangible assets) should document and forward the information in the appropriate report to the forfeiture reviewer.

## *Asset Forfeiture*

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### **606.5 MAINTAINING SEIZED PROPERTY**

The Property and Evidence Section Supervisor is responsible for ensuring compliance with the following:

- (a) All property received for forfeiture is reasonably secured and properly stored to prevent waste and preserve its condition.
- (b) All property received for forfeiture is checked to determine if the property has been stolen.
- (c) All property received for forfeiture is retained in the same manner as evidence until forfeiture is finalized or the property is returned to the claimant or the person with an ownership interest.
- (d) Property received for forfeiture is not used unless the forfeiture action has been completed.

### **606.6 FORFEITURE REVIEWER**

The Chief of Police will appoint an officer as the forfeiture reviewer. Prior to assuming duties, or as soon as practicable thereafter, the forfeiture reviewer should attend a department-approved course on asset forfeiture.

The responsibilities of the forfeiture reviewer include:

- (a) Remaining familiar with forfeiture laws, particularly Health and Safety Code § 11469 et seq. and Penal Code § 186.2 et seq. and the forfeiture policies of the forfeiture counsel.
- (b) Serving as the liaison between the Department and the forfeiture counsel and ensuring prompt legal review of all seizures.
- (c) Making reasonable efforts to obtain annual training that includes best practices in pursuing, seizing and tracking forfeitures.
- (d) Reviewing each seizure-related case and deciding whether the seizure is more appropriately made under state or federal seizure laws. The forfeiture reviewer should contact federal authorities when appropriate.
- (e) Ensuring that responsibilities, including the designation of a fiscal agent, are clearly established whenever multiple agencies are cooperating in a forfeiture case.
- (f) Ensuring that seizure forms are available and appropriate for department use. These should include notice forms, a receipt form and a checklist that provides relevant guidance to officers. The forms should be available in languages appropriate for the region and should contain spaces for:
  - 1. Names and contact information for all relevant persons and law enforcement officers involved.
  - 2. Information as to how ownership or other property interests may have been determined (e.g., verbal claims of ownership, titles, public records).



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## Policy Manual

### *Asset Forfeiture*

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3. A space for the signature of the person from whom cash or property is being seized.
  4. A tear-off portion or copy, which should be given to the person from whom cash or property is being seized, that includes the legal authority for the seizure, information regarding the process to contest the seizure and a detailed description of the items seized.
- (g) Ensuring that officers who may be involved in asset forfeiture receive training in the proper use of the seizure forms and the forfeiture process. The training should be developed in consultation with the appropriate legal counsel and may be accomplished through traditional classroom education, electronic media, Daily Training Bulletins (DTBs) or Department Directives. The training should cover this policy and address any relevant statutory changes and court decisions.
- (h) Reviewing each asset forfeiture case to ensure that:
1. Written documentation of the seizure and the items seized is in the case file.
  2. Independent legal review of the circumstances and propriety of the seizure is made in a timely manner.
  3. Notice of seizure has been given in a timely manner to those who hold an interest in the seized property.
  4. Property is promptly released to those entitled to its return (Health and Safety Code § 11488.2).
  5. All changes to forfeiture status are forwarded to any supervisor who initiates a forfeiture case.
  6. Any cash received is deposited with the fiscal agent.
  7. Assistance with the resolution of ownership claims and the release of property to those entitled is provided.
  8. Current minimum forfeiture thresholds are communicated appropriately to officers.
  9. This policy and any related policies are periodically reviewed and updated to reflect current federal and state statutes and case law.
- (i) Ensuring that a written plan that enables the Chief of Police to address any extended absence of the forfeiture reviewer, thereby ensuring that contact information for other law enforcement officers and attorneys who may assist in these matters is available.
- (j) Ensuring that the process of selling or adding forfeited property to the department's regular inventory is in accordance with all applicable laws and consistent with the department's use and disposition of similar property.
- (k) Keeping a manual that details the statutory grounds for forfeitures and department procedures related to asset forfeiture, including procedures for prompt notice to interest

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### *Asset Forfeiture*

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holders, the expeditious release of seized property, where appropriate, and the prompt resolution of claims of innocent ownership (Health and Safety Code § 11469).

- (l) Providing copies of seized business records to the person or business from whom such records were seized, when requested (Health and Safety Code §11471).
- (m) Notifying the California Franchise Tax Board when there is reasonable cause to believe that the value of seized property exceeds \$5,000.00 (Health and Safety Code § 11471.5).

Forfeiture proceeds should be maintained in a separate fund or account subject to appropriate accounting control, with regular reviews or audits of all deposits and expenditures.

Forfeiture reporting and expenditures should be completed in the manner prescribed by the law and City financial directives (Health and Safety Code § 11495).

#### **606.7 DISPOSITION OF FORFEITED PROPERTY**

Forfeited funds distributed under Health and Safety Code § 11489 et seq. shall only be used for purposes allowed by law, but in no case shall a peace officer's employment or salary depend upon the level of seizures or forfeitures he/she achieves (Health and Safety Code § 11469).

The Department may request a court order so that certain uncontaminated science equipment is relinquished to a school or school district for science classroom education in lieu of destruction (Health and Safety Code § 11473; Health and Safety Code § 11473.5).

#### **606.8 CLAIM INVESTIGATIONS**

An investigation shall be made as to any claimant of a vehicle, boat or airplane whose right, title, interest or lien is on the record in the Department of Motor Vehicles or in an appropriate federal agency. If investigation reveals that any person, other than the registered owner, is the legal owner, and such ownership did not arise subsequent to the date and time of arrest or notification of the forfeiture proceedings or seizure of the vehicle, boat or airplane, notice shall be made to the legal owner at his/her address appearing on the records of the Department of Motor Vehicles or the appropriate federal agency (Health and Safety Code § 11488.4).

## Eyewitness Identification

### 610.1 PURPOSE AND SCOPE

This policy sets forth guidelines to be used when members of this department employ eyewitness identification techniques.

#### 610.1.1 DEFINITIONS

Definitions related to the policy include:

**Eyewitness identification process** - Any field identification, live lineup or photographic identification.

**Field identification** - A live presentation of a single individual to a witness following the commission of a criminal offense for the purpose of identifying or eliminating the person as the suspect.

**Live lineup** - A live presentation of individuals to a witness for the purpose of identifying or eliminating an individual as the suspect.

**Photographic lineup** - Presentation of photographs to a witness for the purpose of identifying or eliminating an individual as the suspect.

### 610.2 POLICY

This department will strive to use eyewitness identification techniques, when appropriate, to enhance the investigative process and will emphasize identifying persons responsible for crime and exonerating the innocent.

Santa Clara County Protocols Section 7 - Line-Up Protocol for Law Enforcement shall be utilized as a guideline when conducting photographic or live lineups (Jail). All personnel are required to read and follow Santa Clara County Protocols Section 7 - Line-Up Protocol for Law Enforcement.

### 610.3 INTERPRETIVE SERVICES

Officers should make a reasonable effort to arrange for an interpreter before proceeding with eyewitness identification if communication with a witness is impeded due to language or hearing barriers.

Before the interpreter is permitted to discuss any matter with the witness, the investigating officer should explain the identification process to the interpreter. Once it is determined that the interpreter comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this policy.

### 610.4 EYEWITNESS IDENTIFICATION FORM

A **Photo or Live Line-Up (Jail) Admonishment** form shall be utilized when conducting a photographic or live line-up (Jail). A **Field Identification Admonishment** form shall be utilized when conducting an in field identification.

## *Eyewitness Identification*

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The process and any related forms or reports should provide:

- (a) The date, time and location of the eyewitness identification procedure.
- (b) The name and identifying information of the witness.
- (c) The name of the person administering the identification procedure.
- (d) If applicable, the names of all of the individuals present during the identification procedure.
- (e) An admonishment that the suspect may or may not be among those presented and that the witness is not obligated to make an identification.
- (f) An admonishment to the witness that the investigation will continue regardless of whether an identification is made by the witness.
- (g) A signature line where the witness acknowledges that he/she understands the identification procedures and instructions.

The process and related forms should be reviewed at least annually and modified when necessary.

### **610.5 EYEWITNESS IDENTIFICATION**

Officers are cautioned not to, in any way, influence a witness as to whether any subject or photo presented in a lineup is in any way connected to the case.

Officers should avoid mentioning that:

- The individual was apprehended near the crime scene.
- The evidence points to the individual as the suspect.
- Other witnesses have identified, or failed to identify, the individual as the suspect.

In order to avoid undue influence, witnesses should view suspects or a lineup individually and outside the presence of other witnesses. Whenever feasible, the eyewitness identification procedure should be audio and/or video recorded and the recording should be retained according to current evidence procedures.

#### **610.5.1 FIELD IDENTIFICATION CONSIDERATIONS**

Field identifications, also known as field elimination show-ups or one-on-one identifications, may be helpful in certain cases, where exigent circumstances make it impracticable to conduct a photo or live lineup identifications.

Per the Santa Clara County Line-Up Protocol, if probable cause exists for an arrest, it is rarely advisable to conduct an in field identification instead of a line-up unless other factors outweigh the value of a line-up.

When initiating a field identification, the officer should observe the following guidelines:

- (a) Obtain a complete description of the suspect from the witness.
- (b) Assess whether a witness should be included in a field identification process by considering:

## *Eyewitness Identification*

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1. The length of time the witness observed the suspect.
  2. The distance between the witness and the suspect.
  3. Whether the witness could view the suspect's face.
  4. The quality of the lighting when the suspect was observed by the witness.
  5. Whether there were distracting noises or activity during the observation.
  6. Any other circumstances affecting the witness's opportunity to observe the suspect.
  7. The length of time that has elapsed since the witness observed the suspect.
- (c) If safe and practicable, the person who is the subject of the show-up should not be handcuffed or in a patrol vehicle.
- (d) When feasible, officers should bring the witness to the location of the suspect, rather than bring the suspect to the witness.
- (e) A person should not be shown to the same witness more than once.
- (f) In cases involving multiple suspects, witnesses should only be permitted to view the suspects one at a time.
- (g) A person in a field identification should not be required to put on clothing worn by the suspect, to speak words uttered by the suspect or to perform other actions mimicking those of the suspect.

### **610.6 DOCUMENTATION**

A thorough description of the eyewitness process and the results of any eyewitness identification should be documented in the case report. Witness comments of how certain he/she is of the identification or non-identification should be quoted in the report.

If a photographic lineup is utilized, a copy of the photographic lineup presented to the witness should be included in the case report. In addition, the order in which the photographs were presented to the witness should be documented in the case report.

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## Brady Material Disclosure

### 612.1 PURPOSE AND SCOPE

This policy establishes guidelines for identifying and releasing potentially exculpatory or impeachment information (so-called #*Brady* information#) to a prosecuting attorney.

#### 612.1.1 DEFINITIONS

Definitions related to this policy include:

***Brady* information** - Information known or possessed by the Palo Alto Police Department that is both favorable and material to the current prosecution or defense of a criminal defendant.

### 612.2 POLICY

The Palo Alto Police Department will conduct fair and impartial criminal investigations and will provide the prosecution with both incriminating and exculpatory evidence, as well as information that may adversely affect the credibility of a witness. In addition to reporting all evidence of guilt, the Palo Alto Police Department will assist the prosecution by complying with its obligation to disclose information that is both favorable and material to the defense. The Department will identify and disclose to the prosecution potentially exculpatory information, as provided in this policy.

### 612.3 DISCLOSURE OF INVESTIGATIVE INFORMATION

Officers must include in their investigative reports adequate investigative information and reference to all material evidence and facts that are reasonably believed to be either incriminating or exculpatory to any individual in the case. If an officer learns of potentially incriminating or exculpatory information any time after submission of a case, the officer or the handling investigator must prepare and submit a supplemental report documenting such information as soon as practicable. Supplemental reports shall be promptly processed and transmitted to the prosecutor's office.

If information is believed to be privileged or confidential (e.g., confidential informant or protected personnel files), the officer should discuss the matter with a supervisor and/or prosecutor to determine the appropriate manner in which to proceed.

Evidence or facts are considered material if there is a reasonable probability that they would affect the outcome of a criminal proceeding or trial. Determining whether evidence or facts are material often requires legal or even judicial review. If an officer is unsure whether evidence or facts are material, the officer should address the issue with a supervisor.

### 612.4 DISCLOSURE OF PERSONNEL INFORMATION

Whenever it is determined that *Brady* information is located in the personnel file of a member of this department who is a material witness in a criminal case, the following procedure shall apply:

# Palo Alto Police Department

## Policy Manual

### *Brady Material Disclosure*

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- (a) In the event that a *Pitchess* motion has not already been filed by the criminal defendant or other party pursuant to Evidence Code § 1043, the prosecuting attorney shall be notified of the potential presence of *Brady* information in the officer's personnel file.
- (b) The prosecuting attorney should then be requested to file a *Pitchess* motion in order to initiate an in camera review by the court.
- (c) Any member who is the subject of such a motion shall be notified in writing that a motion has been filed.
- (d) The Custodian of Records shall accompany all relevant files during any in camera inspection and address any issues or questions raised by the court in determining whether any information contained in the files is both material and favorable to the criminal defendant.
- (e) If the court determines that there is relevant *Brady* information contained in the files, only that information ordered released will be copied and released to the parties filing the motion.
  - 1. Prior to the release of any information pursuant to this process, the Custodian of Records should request a protective order from the court limiting the use of such information to the involved case and requiring the return of all copies upon completion of the case.

#### 612.4.1 OUT OF COUNTY ARRESTS AND CONVICTIONS

Santa Clara County Protocols Section 20 - Brady Protocol For Out Of County Arrests And Convictions shall be utilized as a guideline regarding the arrest or conviction of Palo Alto Police Department sworn personnel for a misdemeanor or felony offense which occurs outside of Santa Clara County. Personnel are required to read and follow the guidelines set forth in the Santa Clara County Protocols Section 20 - Brady Protocol For Out Of County Arrests And Convictions.

The Personnel & Training Coordinator is responsible for making notifications to the District Attorney's Office pursuant to the protocol.

#### 612.5 INVESTIGATING BRADY ISSUES

If the Department receives information from any source that a member may have issues of credibility, dishonesty or has been engaged in an act of moral turpitude or criminal conduct, the information shall be investigated and processed in accordance with the Personnel Complaints Policy.

#### 612.6 TRAINING

Department members should receive periodic training on the requirements of this policy.

## Chapter 7 - Equipment



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## Department Owned and Personal Property

### 700.1 PURPOSE AND SCOPE

Department employees are expected to properly care for department property assigned or entrusted to them. Employees may also suffer occasional loss or damage to personal or department property while performing their assigned duty. Certain procedures are required depending on the loss and ownership of the item.

### 700.2 CARE OF DEPARTMENTAL PROPERTY

Employees shall be responsible for the safekeeping, serviceable condition, proper care, use and replacement of department property assigned or entrusted to them. An employee's intentional or negligent abuse or misuse of department property may lead to discipline including, but not limited to the cost of repair or replacement.

- (a) Employees shall promptly report through their chain of command, any loss, damage to, or unserviceable condition of any department issued property or equipment assigned for their use.
- (b) The use of damaged or unserviceable department property should be discontinued as soon as practical and replaced with comparable Department property as soon as available and following notice to a supervisor.
- (c) Except when otherwise directed by competent authority or required by exigent circumstances, department property shall only be used by those to whom it was assigned. Use should be limited to official purposes and in the capacity for which it was designed.
- (d) Department property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority.
- (e) In the event that any Department property becomes damaged or unserviceable, no employee shall attempt to repair the property without prior approval of a supervisor.

### 700.3 FILING CLAIMS FOR PERSONAL PROPERTY

Claims for reimbursement for damage or loss of personal property must be made on the proper form. This form is submitted to the employee's immediate supervisor. The supervisor may require a separate written report of the loss or damage.

The supervisor shall direct a memo to the appropriate Division Captain which shall include the results of his/her investigation and whether the employee followed proper procedures. The supervisor's report shall address whether reasonable care was taken to prevent the loss or damage.

Upon review by staff and a finding that no misconduct or negligence was involved, repair or replacement may be approved by the Chief of Police.

# Palo Alto Police Department

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### *Department Owned and Personal Property*

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The Department will not replace or repair luxurious or overly expensive items (jewelry, exotic equipment, etc.) that are not reasonably required as a part of work.

#### 700.3.1 REPORTING REQUIREMENT

A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.

A written report shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made.

#### **700.4 LOSS OR DAMAGE OF PROPERTY OF ANOTHER**

Officers and other employees intentionally or unintentionally may cause damage to the real or personal property of another while performing their duties. Any employee who damages or causes to be damaged any real or personal property of another while performing any law enforcement functions, regardless of jurisdiction, shall report it as provided below.

- (a) A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.
- (b) A written report shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made.
- (c) The report will be forwarded to the City's Risk Manager and the City Attorney's Office.

#### 700.4.1 DAMAGE BY PERSON OF ANOTHER AGENCY

If employees of another jurisdiction cause damage to real or personal property belonging to the City, it shall be the responsibility of the employee present or the employee responsible for the property to make a verbal report to his/her immediate supervisor as soon as circumstances permit. The employee shall submit a written report before going off duty or as otherwise directed by the supervisor.

These written reports, accompanied by the supervisor's written report, shall promptly be forwarded to the appropriate Division Captain.

## Personal Communication Devices

### 702.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of mobile telephones and communication devices, whether issued by the Department or personally owned, while on-duty or when used for authorized work-related purposes.

This policy generically refers to all such devices as Personal Communication Devices (PCD) but is intended to include all mobile telephones, personal digital assistants (PDA) and similar wireless two-way communications and/or portable Internet access devices. PCD use includes, but is not limited to, placing and receiving calls, text messaging, blogging and microblogging, e-mailing, using video or camera features, playing games and accessing sites or services on the Internet.

### 702.2 POLICY

The Palo Alto Police Department allows employees to utilize department-issued PCDs and to possess personally owned PCDs in the workplace, subject to certain limitations.

The inappropriate use of a PCD while on-duty may impair officer safety. Additionally, employees are advised and cautioned that the use of a personally owned PCD either on-duty or after duty hours for business-related purposes may subject the employee and the employee's PCD records to civil or criminal discovery or disclosure under applicable public records laws or a lawful order.

Employees who have questions regarding the application of this policy or the guidelines contained herein are encouraged to seek clarification from supervisory personnel.

### 702.3 PRIVACY POLICY

Employees shall have no expectation of privacy with regard to any communication made with or stored in or through PCDs issued by the Department and shall have no expectation of privacy in their location should the device be equipped with location detection capabilities. The use of any department-provided or -funded PCD, computer, Internet service, telephone service or other wireless service while on-duty is without any expectation of privacy that the employee might otherwise have in any communication, including the content of any such communication. Communications or data reception on personal, password-protected, web-based e-mail accounts and any other services are subject to monitoring if department equipment is used.

### 702.4 DEPARTMENT-ISSUED PCD

Depending on an employee's assignment and the needs of the position, the Department may, at its discretion, issue a PCD. Department-issued PCDs are provided as a convenience to facilitate on-duty performance only. Such devices and the associated telephone number shall remain the sole property of the Department.

## *Personal Communication Devices*

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### **702.5 PERSONALLY OWNED PCD**

Employees may carry a personally owned PCD while on-duty, subject to the following conditions and limitations:

- (a) Carrying a personally owned PCD is a privilege, not a right.
- (b) The Department accepts no responsibility for loss of or damage to a personally owned PCD.
- (c) Employees shall promptly notify the Department in the event the PCD is lost or stolen.
- (d) The PCD and any associated services shall be purchased, used and maintained solely at the employee's expense.
- (e) The device should not be used for work-related purposes except in exigent circumstances (e.g., unavailability of radio communications).
- (f) Employees are advised and cautioned that the use of a personally owned PCD either on-duty or after duty hours for business-related purposes may subject the employee and the employee's PCD records to civil or criminal discovery or disclosure under applicable public records laws or a lawful order.

### **702.6 USE OF PERSONAL COMMUNICATION DEVICES**

The following protocols shall apply to all PCDs that are carried while on-duty or used to conduct department business:

- (a) All PCDs in the workplace shall be set to silent or vibrate mode.
- (b) A PCD may not be used to conduct personal business while on-duty, except for brief personal communications (e.g., informing family of extended hours).
- (c) Employees may use a PCD to communicate with other personnel in situations where the use of the radio is either impracticable or not feasible. PCDs should not be used as a substitute for, as a way to avoid or in lieu of regular radio communications.
- (d) Officers are prohibited from taking pictures, video or making audio recordings or making copies of any such picture or recording media unless it is directly related to official department business. Disclosure of any such information to any third party through any means, without the express authorization of the Chief of Police or the authorized designee, may result in discipline.
- (e) Using PCDs to harass, threaten, coerce or otherwise engage in inappropriate conduct with any third party is prohibited. Any employee having knowledge of such conduct shall promptly notify a supervisor.

### **702.7 SUPERVISORY RESPONSIBILITIES**

Supervisors should ensure that members under their command are provided appropriate training on the use of PCDs consistent with this policy. Supervisors should monitor, to the extent practicable, PCD use in the workplace and take prompt corrective action if an employee is

## *Personal Communication Devices*

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observed or reported to be improperly using a PCD. An investigation into improper conduct should be promptly initiated when circumstances warrant.

If, when carrying out any provision of this policy, the need to contact an employee who is off-duty arises, supervisors should consider delaying the contact, if practicable, until the employee is on-duty, as such contact may be compensable.

### **702.8 USE WHILE DRIVING**

The use of a PCD while driving can adversely affect safety, cause unnecessary distractions and present a negative image to the public. Officers operating emergency vehicles should restrict the use of these devices to matters of an urgent nature and should, where practicable, stop the vehicle at an appropriate location to use the PCD.

Except in an emergency, employees who are operating non-emergency vehicles shall not use a PCD while driving unless the device is specifically designed and configured to allow hands-free use (Vehicle Code § 23123). Hands-free use should be restricted to business-related calls or calls of an urgent nature.

### **702.9 OFFICIAL USE**

Employees are reminded that PCDs are not secure devices and conversations may be intercepted or overheard. Caution should be exercised while utilizing PCDs to ensure that sensitive information is not inadvertently transmitted. As soon as reasonably possible, employees shall conduct sensitive or private communications on a land-based or other department communications network.

The following situations are examples of when the use of a PCD may be appropriate:

- (a) Barricaded suspects
- (b) Hostage situations
- (c) Mobile Command Post
- (d) Catastrophic disasters, such as plane crashes, earthquakes, floods, etc.
- (e) Major political or community events
- (f) Investigative stakeouts
- (g) Emergency contact with an allied agency or allied agency field unit
- (h) When immediate communication is needed and the use of the radio is not available or appropriate and other means are not readily available

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## Vehicle Maintenance

### 704.1 PURPOSE AND SCOPE

Employees are responsible for assisting in maintaining Department vehicles so that they are properly equipped, properly maintained, properly refueled and present a clean appearance.

### 704.2 DEFECTIVE VEHICLES

When a department vehicle becomes inoperative or in need of repair that affects the safety of the vehicle, that vehicle shall be removed from service for repair. Proper documentation shall be promptly completed by the employee who first becomes aware of the defective condition, describing the correction needed. The paperwork shall be promptly forwarded to vehicle maintenance for repair.

### 704.3 VEHICLE EQUIPMENT

Certain items shall be maintained in all department vehicles for emergency purposes and to perform routine duties.

#### 704.3.1 PATROL VEHICLES

shall inspect the patrol vehicle at the beginning of the shift and ensure that the following equipment, at a minimum, is present in the vehicle:

- Emergency road flares;
- Sticks of yellow crayon or chalk;
- Roll of barricade tape;
- First aid kit;
- Fire extinguisher;
- Ampro bag;
- Protective equipment per Policy Manual §§1016 and 1024;
- Shotgun;
- Ammunition box;
- Police report forms.

#### 704.3.2 UNMARKED VEHICLES

An employee driving unmarked department vehicles shall ensure that the minimum following equipment is present in the vehicle:

- First aid kit.

## *Vehicle Maintenance*

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### **704.4 VEHICLE REFUELING**

Absent emergency conditions or supervisor approval, officers driving patrol vehicles shall not place a vehicle in service that has less than one-quarter tank of fuel. Vehicles shall only be refueled at the authorized location.

### **704.5 WASHING OF VEHICLES**

All units shall be kept clean at all times and weather conditions permitting, shall be washed as necessary to enhance their appearance.

Officers in patrol shall notify Communications before responding to the car wash. Only one marked unit should be at the car wash at the same time unless otherwise approved by a supervisor.

Employees using a vehicle shall remove any trash or debris at the end of their shift. Confidential material should be placed in a designated receptacle provided for the shredding of this matter.

### **704.6 CIVILIAN EMPLOYEE USE**

Civilian employees using marked vehicles shall ensure all weapons are removed from vehicles before going into service. Civilian employees shall also prominently display the #out of service# placards or lightbar covers at all times. Civilian employees shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

## Vehicle Use

### 706.1 PURPOSE AND SCOPE

This policy establishes a system of accountability to ensure City-owned vehicles are used appropriately. For the purposes of this policy, #City-owned# includes any vehicle owned, leased or rented by the City.

### 706.2 POLICY

The Department provides vehicles for official business use and may assign take-home vehicles based on its determination of operational efficiency, economic impact to the Department, tactical deployments and other considerations.

### 706.3 USE OF VEHICLES

City-owned vehicles shall only be used for official business and, when approved, for commuting to allow members to respond to department-related business outside their regular work hours.

Members shall not operate a City-owned vehicle at any time when impaired by drugs and/or alcohol.

Any member operating a vehicle equipped with a two-way communications radio, MDC and/or a GPS device shall ensure the devices are on and set to an audible volume whenever the vehicle is in operation.

#### 706.3.1 SHIFT ASSIGNED VEHICLES

Members who use a fleet vehicle as part of their work assignment shall ensure that the vehicle is properly checked out and logged on the daily shift roster, according to current procedures, prior to taking it into service. If for any reason during the shift the vehicle is exchanged, the member shall ensure that the exchanged vehicle is likewise properly noted on the daily shift roster.

Members shall be responsible for inspecting the interior and exterior of any assigned vehicle before taking the vehicle into service and at the conclusion of the shift. Any previously unreported damage, mechanical problems, unauthorized contents or other problems with the vehicle shall be promptly reported to a supervisor and documented as appropriate.

#### 706.3.2 UNSCHEDULED USE OF VEHICLES

Members utilizing a City-owned vehicle for any purpose other than their regularly assigned duties shall first notify the Watch Commander of the reason for use and a notation will be made on the shift roster indicating the operator's name and vehicle number. This section does not apply to members permanently assigned an individual vehicle (e.g., command staff, detectives), who regularly use the vehicle on an unscheduled basis as part of their normal assignment.

#### 706.3.3 UNMARKED VEHICLES

Except for use by the assigned member, unmarked units shall not be used without first obtaining approval from the supervisor of the unit to which the vehicle is assigned.



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### 706.3.4 INVESTIGATIVE SERVICES DIVISION MAJOR VEHICLES

Investigative Services Division vehicle use is restricted to investigative personnel during their assigned work hours unless approved by an Investigative Services Division supervisor. Investigative Services Division members shall record vehicle usage via the sign-out log maintained in the Division. After-hours use of Investigative Services Division vehicles by members not assigned to the Investigative Services Division shall be recorded with the Watch Commander on the shift roster.

### 706.3.5 AUTHORIZED PASSENGERS

Members operating City-owned vehicles shall not permit persons other than City members or persons required to be conveyed in the performance of duty, or as otherwise authorized, to ride as a passenger in their vehicle.

### 706.3.6 PARKING

Except when responding to an emergency or other urgent official business requires otherwise, members driving City-owned vehicles should obey all parking regulations at all times.

City-owned vehicles should be parked in their assigned stalls. Members shall not park privately owned vehicles in any stall assigned to a City-owned vehicle or in any other areas of the parking lot that are not designated as a parking space unless authorized by a supervisor. Privately owned motorcycles shall be parked in designated areas.

### 706.3.7 INSPECTIONS

The interior of any vehicle that has been used to transport any person other than a member should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized or personal items have not been left in the vehicle.

When transporting any suspect, prisoner or arrestee, the transporting officer shall search all areas of the vehicle that are accessible by the person before and after the person is transported.

### 706.3.8 PRIVACY

All City-owned vehicles are subject to inspection and/or search at any time by a supervisor without notice and without cause. No member assigned to or operating such vehicle shall be entitled to any expectation of privacy with respect to the vehicle or its contents.

## **706.4 ASSIGNED VEHICLE AGREEMENT**

Members who have been assigned a take-home vehicle may use the vehicle to commute to the workplace and for department-related business. The member must be approved for an assigned vehicle by his/her Division Captain and shall sign an agreement that includes the following criteria:

- (a) The member must live within a 30-minute commute of his/her regularly assigned work location (based on average traffic flow). A longer response time may be permitted subject to Division Captain approval. Members who reside outside the permissible response time may be required to secure or garage the vehicle at a designated location or the central office at the discretion of the Division Captain.

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### *Vehicle Use*

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- (b) Except as may be provided by a memorandum of understanding time spent during normal commuting is not compensable.
- (c) City-owned vehicles shall not be used for personal errands or other personal business unless approved by a supervisor for exceptional circumstances. The member may be required to maintain insurance covering any commuting or personal use.
- (d) The member may be responsible for the care and maintenance of the vehicle. The Department should provide necessary care and maintenance supplies.
- (e) The vehicle shall be parked in secure off-street parking when parked at the member's residence.
- (f) Vehicles shall be locked when not attended.
- (g) If the vehicle is not secured inside a locked garage, all firearms and kinetic impact weapons shall be removed from the interior of the vehicle and properly secured in the residence (see the Firearms and Qualification Policy regarding safe storage of firearms at home).
- (h) When the member will be away (e.g., on vacation) for periods exceeding one week the vehicle shall be stored in a secure garage at the member's residence or at the appropriate department facility.
- (i) All department identification, portable radios and equipment should be secured.

Members are cautioned that under federal and local tax rules, personal use of a City-owned vehicle may create an income tax liability to the member. Members should address questions regarding tax consequences to their tax adviser.

The assignment of vehicles is at the discretion of the Chief of Police. Assigned vehicles may be changed at any time and/or permission to take home a vehicle may be withdrawn at any time.

#### **706.5 KEYS AND SECURITY**

All uniformed field members approved to operate marked patrol vehicles should be issued a copy of the unit key as part of their initial equipment distribution upon hiring. Officers shall not duplicate keys.

Members assigned a permanent vehicle should be issued keys for their assigned vehicle.

The loss of any key shall be promptly reported in writing through the member's chain of command.

#### **706.6 ENFORCEMENT ACTIONS**

When driving an assigned vehicle to and from work outside of the jurisdiction of the Palo Alto Police Department, an officer should avoid becoming directly involved in enforcement actions except in those circumstances where a potential threat to life or serious property damage exists (see the Off-Duty Law Enforcement Actions Policy and the Law Enforcement Authority Policy).

Officers may render public assistance (e.g., to a stranded motorist) when deemed prudent.

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Officers shall, at all times while driving a marked City-owned vehicle, be armed, appropriately attired and carry their department-issued identification. Officers should also ensure that department radio communication capabilities are maintained to the extent feasible.

### **706.7 MAINTENANCE**

Members are responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicles.

Members shall make daily inspections of their assigned vehicles for service/maintenance requirements and damage. It is the assigned member's responsibility to ensure that his/her assigned vehicle is maintained according to the established service and maintenance schedule.

Supervisors shall make, at a minimum, monthly inspections of vehicles assigned to members under their command to ensure the vehicles are being maintained in accordance with policy.

#### **706.7.1 ACCESSORIES AND/OR MODIFICATIONS**

No modifications, additions or removal of any equipment or accessories shall be made to the vehicle without written permission from the Division Captain.

### **706.8 VEHICLE DAMAGE, ABUSE AND MISUSE**

When a City-owned vehicle is involved in a traffic collision or otherwise incurs damage, the involved member shall promptly notify a supervisor. Any traffic collision report shall be filed with the agency having jurisdiction (see also Traffic Collision Reporting Policy).

When a collision involves a City vehicle or when a member of this department is an involved driver in a collision that occurs in this jurisdiction, and the collision results in serious injury or death, the supervisor should request that an outside law enforcement agency be summoned to investigate the collision.

The member involved in the collision shall complete the City's vehicle collision form. If the member is unable to complete the form, the supervisor shall complete the form.

Any damage to a vehicle that was not caused by a traffic collision shall be immediately reported during the shift in which the damage was discovered, documented in memorandum format and forwarded to the Watch Commander. An administrative investigation should be initiated to determine if there is any vehicle abuse or misuse.

### **706.9 TOLL ROAD USAGE**

Law enforcement vehicles are not routinely exempted from incurring toll road charges.

To avoid unnecessary toll road charges, all members operating a City-owned vehicle upon the toll road shall adhere to the following:

- (a) All members operating a City-owned vehicle for any reason other than in response to an emergency shall pay the appropriate toll charge or utilize the appropriate toll way

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### *Vehicle Use*

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transponder. Members may submit a request for reimbursement from the City for any toll fees incurred in the course of official business.

- (b) All members passing through a toll plaza or booth during a response to an emergency shall notify, in writing, the appropriate Division Captain within five working days explaining the circumstances.

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## Personal Protective Equipment

### 707.1 PURPOSE AND SCOPE

Sworn officers will be issued Personal Protective Equipment (PPE) including chemical protective ensembles to allow them to safely respond to Hazardous Materials (HAZMAT) and Weapons of Mass Destruction (WMD) events.

### 707.2 EQUIPMENT

- (a) Level C gear kits will include: Chemically resistant coveralls, gloves, boots, and tape, WMD Respirator Cartridges, and Identification Vest. The Identification vest can also be used for traffic control duties. All sworn officers will be equipped with Level C Personal
- (b) Protective Equipment (PPE) gear. Patrol officers will have their Level C gear available to them in their vehicles while they are on patrol or working assignments where their supervisor deems it necessary. Officers will maintain their gear in good working order and alert the Staff Assistant or designated WMD/HAZMAT Equipment Officer should the gear become damaged or need repair. A cache of extra PPE will be stored in the police station.

### 707.3 TRAINING

All sworn officers will be trained in force protection, decontamination practices, WMD/HAZMAT Awareness and participate in Department trainings concerning WMD/HAZMAT response. The Department will participate in training with the Palo Alto Fire Department and allied local agencies to prepare for a joint response to WMD/HAZMAT events.

### 707.4 OPERATIONS (SUPERVISOR AND OFFICER RESPONSIBILITIES)

Response to a suspected or reported WMD/HAZMAT event will include:

- (a) Communications will dispatch the appropriate number of police and fire units to the call.
- (b) The field supervisor will work with the Fire Battalion Chief in order to coordinate the response, staging location, and on scene control.
- (c) The on-duty Watch Commander will assist in procuring resources, coordinating the response, and making necessary notifications.
- (d) Responding officers will proceed to the staging location.
- (e) The field supervisor in conjunction with the Fire Battalion Chief will determine the need for police officers to don PPE.
- (f) If required, officers will properly don PPE and proceed as directed by the field supervisor.
- (g) Officers will not take independent action that could place them in unreasonable danger, but rather will proceed in an orderly fashion. Responding officers should rely on teamwork and work under the direction of the Field Supervisor. Tasks officers may be assigned will include

## *Personal Protective Equipment*

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acting as security for the firefighters, crowd control, detaining suspects, and interviewing witnesses.

- (h) The field supervisor will be responsible for coordinating the on scene activities, implementing the Incident Command System (ICS)/California Standardized Emergency Management System (SEMS) as deemed appropriate, calling for additional resources, directing incoming units, etc.
- (i) The field supervisor or his/her designee will work closely with the Fire Department personnel to insure responding officers operating in PPE are properly monitored for signs of over exertion, and that those officers are rotated to a rehabilitation station, as appropriate.

### **707.5 DECONTAMINATION PROCEDURE**

If an officer has utilized the PPE and is exposed or potentially exposed to a substance, the officer will participate in the decontamination procedure at the direction of the Fire Department. The on scene Hazmat Specialist will determine if the officer's PPE has been compromised. The officer's PPE may be destroyed and some of the officer's equipment may be replaced.

If an officer utilizes the PPE and was not exposed to any possible harmful substance, the officer should inspect their PPE for damage and then safely store it for future use.

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## Reflectorized Vests

### 709.1 PURPOSE AND SCOPE

In order to reduce the danger to employees exposed to the hazards of approaching traffic, reflectorized vests are provided to increase the visibility of employees.

Statistically, more officers are killed in the line of duty in vehicle collisions than any other way. The intent of this policy is to safeguard the lives of officers and other employees working in or about the right-of-way of traffic for an extended period of time and to comply with the current laws regarding the usage of reflectorized vests (California Code of Regulations, Title 8, Section 1598 et. seq. and federal regulation 23 CFR 634).

### 709.2 POLICY

- (a) One reflectorized vest shall be issued to every officer, reserve officer, and community service officer. All other employees shall temporarily receive a reflectorized vest from the Field Services Staff Assistant, as necessary, for events or incidents, and returned at the conclusion of the event or incident.
- (b) Employees must keep the reflectorized vest inside their vehicle while on-duty.
- (c) Reflectorized vests shall be worn by employees engaged in the performance of vehicular traffic control in any location or while performing investigations upon a highway. Employees responding to traffic collisions or other incidents upon a highway may first stabilize the scene (assess the need for fire/medical response, tend to injured parties, etc.) and address immediate officer safety concerns prior to donning a reflectorized vest.
- (d) Officers are not required to wear a reflectorized vest in adversarial or potentially confrontational situations when the hazards of wearing a reflectorized vest clearly outweigh the benefits of doing so (i.e. traffic enforcement stops, standing in or near a roadway while on an inner perimeter while a suspect is still outstanding, etc.).
- (e) Reflectorized vests shall comply with the ANSI/ISEA 107-2004 Class II standard.
- (f) A supply of reflectorized vests will be maintained by the Patrol Division equipment room for replacement of damaged or unserviceable vests.

### 709.3 CARE AND STORAGE OF REFLECTORIZED VESTS

The reflectorized vest shall be stored and maintained in serviceable condition at all other times.

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## Digital Imaging

### 711.1 PURPOSE AND SCOPE

Digital imaging technologies have become a standard format for forensic photography. It is the intent of the Palo Alto Police Department to use digital photographic equipment and digital imaging equipment as the primary method of capturing and storing photographs.

It is the policy of the Palo Alto Police Department to establish and implement effective guidelines for the use of digital equipment to ensure that images are properly captured, stored and archived.

The Department will utilize a dedicated digital imaging management system to store the images and provide a verifiable chain of custody.

### 711.2 DEFINITIONS

The use of standardized definitions will aid in our ability to effectively describe an image, its origin and its storage.

- (a) Archived Image: Either the primary or original image stored on media suitable for long term storage;
- (b) Copy Image: A reproduction or information contained in a primary or original image;
- (c) Digital Image: An image that is stored in numerical form;
- (d) Digital Imaging: Any systems and/or methods used to capture, store, process, copy, enhance, analyze, transmit, print, or produce an image;
- (e) Image Enhancement: Any process intended to improve the visual appearance of an image;
- (f) Native File Format: The file format of the primary image;
- (g) Original Image: An accurate and complete replica of the primary image, irrespective of media;
- (h) Primary Image: Refers to the first instance in which an image is recorded onto any media that is a separate, identifiable object or objects.

### 711.3 PROCEDURE

**System** ,# The Police Department will use the Veripic Digital Photo Lab for managing digital images. The Department will use a dedicated server that will physically be housed in a secure area of the Police Department. The client terminals will also be maintained in secure areas of the Police Department and not available to the general public. The digital imaging system will only be used by authorized personnel who have received training in the operation of the system. The system will only be used for the purpose of managing official department photographs. The system will not be used for personal photographs of any kind.

**Administration** ,# The Technical Services Coordinator will oversee the system. The Coordinator will assign one or more police personnel to manage the day to day administrator functions of the



## Digital Imaging

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system. It is the responsibility of this officer to maintain the system in a working fashion, coordinate software and hardware replacement, add and delete users from the system, and maintain a working relationship with the Information Technologies personnel assigned to the system.

**Training** ,# Only personnel who have been trained in the use of the digital equipment and Veripic software will be authorized to use it. Personnel will not be given a logon or password if they have not received proper training. Personnel may download photos for other employees that have not been trained to use the system. Personnel shall not share their individual logon or password with others.

**Use at Crime Scenes** ,# Digital photography has become the industry standard for capturing images. It is no longer recommended that 35mm film systems be used at crime scenes, unless there is a special need for that medium. In some situations the photographer may choose to use 35mm equipment. The Department will maintain at least one serviceable 35mm system for those circumstances. It is strongly recommended that major crime scenes be photographed and the images downloaded before the scene is released.

**Importing Images** ,# All images downloaded into the Veripic system shall have an incident number. As a reminder, the directions for importing images into Veripic will be posted next to the client terminals. It is the policy of the Department that all images downloaded into Veripic will be tagged with the Incident Number, Designated Report number, primary Offense/Classification, and the address of the event. The following procedures will be used for naming images:

- (a) Enter the Incident Number in the box titled "Enter New Case Number (30 max length):" Always use the full number with dashes. i.e.: 10-001-0001
- (b) Enter the Designated Report (DR) number in the box titled "Description of Media." Leave this area blank if there is no Designated Report Number. Always use the full number with dashes. i.e.: 10-0001
- (c) In the box titled "Notes for all media", enter main offense & classification. You may enter more than one offense & classification if desired.
- (d) Push "Enter" to start a new line and enter the address of the event.

**Annotating Field Interview Images** ,# All FI photos will be downloaded and tagged as described above. Each photo will then be annotated with the name of the individual in the "Notes for all media" box. See the Veripic instructions for directions on how to annotate individual images.

**Archiving Images** ,# Acquired images shall be downloaded to the Veripic System at one of the client terminals. In the event of a catastrophic system failure, images may be written directly to a CD or DVD and that medium will be logged into evidence. The images will be copied to the Veripic system at a later time.

### 711.4 FILE FORMAT

It is the policy of the Palo Alto Police Department that the native file format of digital images shall be JPEG (file extension .jpg).

## *Digital Imaging*

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### **711.5 ALTERING OR DISCARDING IMAGES**

Under no circumstances should a digital photograph taken for evidentiary purposes be deleted, altered or otherwise discarded. All evidence images will be saved regardless of quality or perceived usefulness.

Digital images associated with a police report will be kept for as long as is required by the Police Department retention schedule. These images will be kept no less than five (5) years and up to one hundred (100) years (permanent) depending on the type of report.

When a case is adjudicated through the court process and all evidence is deemed purged, the Police Records Manager will notify the system administrator, who will ensure that the archived digital images from that report are destroyed as well.

### **711.6 ENHANCING IMAGES**

Enhancement of an image is done simply to make the image more viewable. Enhancement is typically done to color balance, brightness and contrast. When an image is enhanced, each step taken to make the enhancement shall be documented on a supplemental report and attached to the original case file. Enhancements shall only be made to a copy of the original image (the original image shall not be altered).

### **711.7 COMPUTER SECURITY**

The enterprise server designated for the storing of digital images is currently located in the Communications computer room. The server should only be operated by technicians from the IT division or authorized system administrators.

The client terminals are located in the Investigative Services Division and on A level in the Field Services Division. The client terminals should only be used by authorized operators.

The system will be password protected to prohibit unauthorized use.

No person, other than the system administrator, is authorized to add or delete programs, perform maintenance functions, or otherwise alter the system and software settings.

### **711.8 USE OF IMAGES**

Images taken by department personnel during the performance of their official duties should be considered evidence and treated as such. Images should be used for legitimate law enforcement purposes only.

No images should be distributed to persons not authorized to receive them. No images taken for evidentiary reasons should be used for entertainment purposes, or otherwise posted or distributed for unauthorized reasons.

## *Digital Imaging*

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### **711.9 OBTAINING IMAGES FOR OFFICIAL USE**

Images may be delivered to authorized recipients in a variety of formats. Images may be printed, copied to an external hard drive, copied to a jump drive, copied to a CD/DVD, or send by e-mail. If an image/file is needed, the user may export the files directly to the desired media. See the Veripic instructions for directions on how to export images.

The Court Liaison will be responsible for obtaining and distributing all images that are requested through an official discovery request.

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## Patrol Team Boxes

### 713.1 PURPOSE AND SCOPE

The Department provides each patrol team equipment to assist in their patrol duties. This equipment is stored inside a Team Box.

### 713.2 TEAM BOX CONTENTS

Each Team Box contains the following equipment:

- (a) Burris Landmark II Binoculars
- (b) Yukon Digital Ranger Night Vision
- (c) Canon Powershot Digital Camera
- (d) Various associated cords and batteries

### 713.3 PROCEDURE

During daily briefings, a team member should be assigned to carry the Team Box. The team member who is assigned to carry the Team Box should inspect the equipment inside the Team Box at the beginning of the shift and immediately report any missing or damaged equipment to his/her supervisor. The team member that is assigned to carry the Team Box is responsible for the care of all the contents of the Team Box.

The Team Box should not be left in the patrol car, but should be stored in the equipment room that is just outside of the briefing room at the end of the assigned team member's shift.

Any damaged equipment should be reported to the Staff Assistant for repair or replacement.

## **Chapter 8 - Support Services**

## Crime Analysis

### 800.1 PURPOSE AND SCOPE

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

### 800.2 DATA SOURCES

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

- Crime reports;
- Field Interview cards;
- Parole and Probation records;
- Calls for Service (CFS);
- Collision Investigation Manual (CIM);
- RMS (ICIS);
- Computer Aided Dispatch (CAD) data;
- Statewide Integrated Traffic Reporting System (SWITRS);
- Outside law enforcement agency bulletin.

### 800.3 CRIME ANALYSIS FACTORS

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

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

## *Crime Analysis*

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### **800.4 CRIME ANALYSIS DISSEMINATION**

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

## Communication Operations

### 802.1 PURPOSE AND SCOPE

The basic function of the communications system is to satisfy the immediate information needs of the law enforcement agency in the course of its normal daily activities and during emergencies. The latter situation places the greatest demands upon the communications system and tests the capability of the system to fulfill its functions. Measures and standards of performance are necessary to assess the effectiveness with which any department, large or small, uses available information technology in fulfillment of its missions.

#### 802.1.1 FCC COMPLIANCE

Palo Alto Police Department radio operations shall be conducted in accordance with Federal Communications Commission (FCC) procedures and guidelines.

### 802.2 COMMUNICATION OPERATIONS

This department provides 24-hour telephone service to the public for information or assistance that may be needed in emergencies. The Palo Alto Police Department Communications/Dispatch Center also provides 9-1-1 services to the Palo Alto Fire Department, Palo Alto Utilities, Palo Alto Public Works, and the Stanford University Department of Public Safety. The ability of citizens to telephone quickly and easily for emergency service is critical. This department provides access to the 911 system for a single emergency telephone number. This department has two-way radio capability providing continuous communication between the Communications Center and officers.

#### 802.2.1 COMMUNICATIONS LOG

It shall be the responsibility of the Communications Center to record all relevant information on calls for criminal and non-criminal service or self-initiated activity. Employees shall attempt to elicit as much information as possible to enhance the safety of the officer and assist in anticipating conditions to be encountered at the scene. Desirable information would include, at a minimum, the following:

- Incident number;
- Date and time of request;
- Name, address and phone number of complainant, if possible;
- Type of incident reported;
- Location of incident reported;
- Identification of officer(s) assigned as primary and backup;
- Time of dispatch;
- Time of the officer's arrival;
- Time of officer's return to service;



## *Communication Operations*

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- Disposition or status of reported incident.

### **802.3 RADIO COMMUNICATIONS**

Operations are more efficient and officer safety is enhanced when dispatchers, supervisors, and fellow officers know the status of officers, their locations and the nature of cases.

#### **802.3.1 OFFICER IDENTIFICATION**

Identification systems are based on factors such as officer's daily assignment and officer identification numbers. Employees should use the entire call sign when initiating communication with the dispatcher. The use of the call sign allows for a brief pause so that the dispatcher can acknowledge the appropriate unit. Employees initiating communication with other agencies shall use their entire call sign. This requirement does not apply to continuing conversation between the mobile unit and dispatcher once the mobile unit has been properly identified.

Refer to the Communications/Dispatch Center Procedure Manual for specific protocols within this unit.

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## Property Procedures

### 804.1 PURPOSE AND SCOPE

It is the policy of the Palo Alto Police Department to insure that all evidence/property is processed and stored in a manner which provides optimum security against loss, theft or tampering. This policy provides for the proper collection, storage, and security of evidence and other property. Additionally, this policy provides for the protection of the chain of evidence and those persons authorized to remove and/or destroy property.

Responsibility for proper handling and storage of evidence/property begins with the employee who has first custody of the evidence/property. This responsibility is then transferred to the Property Technician when the evidence/property is placed in his/her custody.

The Investigative Services Division Captain or his/her designee shall have the overall responsibility for the storage and safekeeping of all evidence/property.

The Palo Alto Police Department has a full time property unit consisting of two civilian Property/Evidence Technicians.

### 804.2 DEFINITIONS

**Property** - Includes all items of evidence, items taken for safekeeping and found property.

**Evidence** - Includes items taken or recovered in the course of an investigation that may be used in the prosecution of a case. This includes photographs and latent fingerprints.

**Safekeeping** - Includes the following types of property:

- Property obtained by the Department for safekeeping such as a firearm
- Personal property of an arrestee not taken as evidence
- Property taken for safekeeping under authority of a law (e.g., Welfare and Institutions Code § 5150 (mentally ill persons))

**Found property** - Includes property found by an employee or citizen that has no apparent evidentiary value and where the owner cannot be readily identified or contacted.

### 804.3 PROPERTY HANDLING

- (a) Taking Property** - Employees who take property into custody shall, in every instance, place all property obtained in the course of his or her employment in the Department's property system prior to going off duty. In no instance shall property be stored in a personal locker, desk, or other unauthorized locations.
- (b) Documentation** - The employee will prepare a case report or follow-up report and a property report describing how, what, when, and where he/she came into possession of the property.

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1. The employee shall submit the property report with the property item; property reports for large items stored in the temporary storage room shall be placed in the file on the property room door;
  2. The employee shall also prepare a property tag and attach it to the property items, except for those which are placed in a container stamped with the property identification stamp;
- (c) **Inquires** - The employee will make appropriate inquires into the State Department of Justice computer regarding serialized or identifiable items of property to determine if the property is reported stolen.
- (d) **Property Technician: Present** - When the Property Technician is on duty, the employee shall:
1. Deliver property he/she has taken into custody, to the Property Technician;
  2. The Property Technician shall verify property received to the property described on the property report. An exception to this provision is sealed cash, and items sealed to preserve trace evidence;
- (e) **Property Technician: Absent** - In the absence of the Property Technician, the employee shall place small property items, together with the property record, in a temporary storage property locker.

#### 804.3.1 PROPERTY BOOKING PROCEDURE

All property must be booked prior to the employee going off-duty unless otherwise approved by a supervisor. Employees booking property shall observe the following guidelines:

- (a) Complete the property form describing each item of property separately, listing all serial numbers, owner's name, finder's name, and other identifying information or markings.
- (b) Mark each item of evidence with the case number and item number using the appropriate method so as not to deface or damage the value of the property.
- (c) The property shall be stored in a temporary evidence lockers outside the evidence area, until it is received by the Property Technician.
- (d) The original property form shall be placed inside the locker with the property. A copy shall be included with the police report.

#### 804.3.2 NARCOTICS AND DANGEROUS DRUGS

All narcotics and dangerous drugs will be packaged in plastic heat seal bags and heat sealed by the person processing the property/evidence. The gross weight (narcotic substance, packaging and the weight of the sealed bag) will be indicated on the evidence sticker on the sealed bag.

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If a large amount or type of narcotic or dangerous drug prohibits the use of plastic heat seal bags, other types of containers may be used. However, all containers will be sealed sufficiently to prevent tampering.

An evidence sticker shall be affixed to the container indicating the gross weight of the narcotic substance, packaging, and the weight of the container. The gross weight of the narcotic substance and packaging shall be indicated on the property sheet.

Marijuana plants will be packaged in a manner which will allow them to dry out. Each plant will be tagged with the case number written on the tag. When the plants are dry, they will be packaged for long term storage by the property and evidence technician. Marijuana plants will not be weighed, but will be photographed and counted and described by height and any further detail on the property sheet.

#### 804.3.3 EXPLOSIVES

Explosives that are known or suspected to be armed or live, other than fixed ammunition, should not be brought to the police facility. All fireworks, railroad flares, or fuses that are considered safe will be transported to the Fire Department.

Officers who encounter an explosive device shall immediately notify their immediate supervisor and/or Watch Commander. The Bomb Squad will be called to handle situations involving explosive devices and all such devices will be released to them for disposal.

The District Attorney's office should be contacted to determine the necessity for retaining the explosive material for evidence.

#### 804.3.4 EXCEPTIONAL HANDLING

Certain property items require a separate process. The following items shall be processed in the described manner:

- (a) Bodily fluids such as blood or semen stains shall be air dried prior to booking
- (b) Wet Items shall be air dried in the temporary storage room. The officer who submitted these items shall be responsible for returning to the temporary storage room and submitting the items into the property room.
- (c) License plates found not to be stolen or connected with a known crime, should be released directly to the property and evidence technician, or placed in the designated container for return to the Department of Motor Vehicles. No formal property booking process is required
- (d) All bicycles and bicycle frames require a property record. Property tags will be securely attached to each bicycle or bicycle frame. The property may be released directly to the property and evidence technician, or placed in the bicycle storage area until a property and evidence technician can log the property
- (e) Money submitted into the evidence room shall be packaged in heat sealed plastic bags. Amounts of cash exceeding \$100.00 shall be stored in the safe inside the property room. When property room personnel release money, they shall seek out an ISD supervisor, or

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another employee of equal or superior rank, and open the sealed bag in their presence. The money shall be counted at that time. When money is deposited in the City's Revenue Collections Facility, the property room personnel shall fill out a Transit Tag indicating the case number and the amount being deposited. The staff of Revenue Collections will verify the amount, and sign the Transit Tag, acknowledging receipt of the cash. One copy of that receipt shall be affixed to the original property report and the other maintained in the property room file.

- (f) City property, unless connected to a known criminal case, should be released directly to the appropriate City department. No formal booking is required. In cases where no responsible person can be located, the property should be booked for safekeeping in the normal manner.

### **804.4 PACKAGING OF PROPERTY**

Certain items require special consideration and shall be booked separately as follows:

- (a) Narcotics and dangerous drugs.
- (b) Syringes shall be placed in the puncture proof tubes provided in the evidence packaging area. An exception to this would be new, unused syringes that are still in the original factory package.
- (c) Firearms - an employee accepting custody of a firearm shall insure that the firearm is unloaded prior to accepting it. When the firearm is taken into custody in a loaded status (i.e., taken from a suspect), the officer taking the firearm into custody shall unload it as soon as possible and always before transferring custody to another person. All firearms will be handled and transferred from one person to another with cylinders open, magazines removed, bolts opened and locked and chambers cleared, safety on.
- (d) If for some reason such as damage, malfunction, or maintaining the firearms condition for evidentiary purposes, the firearm cannot be unloaded, the person having custody of it shall insure that the status is given to the person to whom the firearm is transferred. If the loaded firearm is deposited into a temporary storage locker, it will be clearly marked and an explanation of its loaded status attached for the property and evidence technician to read. The property and evidence technician shall make arrangements for unloading any firearms that were not unloaded prior to securing them into the property/evidence room.
- (e) The property and evidence technician will maintain a separate log of all firearms which come into his/her possession. The log will contain the case number, make, model, serial number, and disposition.
- (f) Flammables - Per Palo Alto Fire Code §79.201(E), flammable liquids shall not be stored at the Police Department. If it is necessary to retain flammable liquids, the Fire Department should be contacted regarding safe storage of the materials. The District Attorney's office advises that in misdemeanor cases such as siphoning gas, the gasoline does not need to be retained as evidence. Photos of suspect and evidence should be taken and placed into evidence, identified with case number. In felony cases, the District Attorney's office should

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be contacted and asked whether the flammable material should be retained as evidence or whether it may be disposed of. Paraphernalia as described in Health & Safety Code § 11364 and Business and Profession Code § 4140.

- (g) Perishables - Perishable items such as shoplifted food shall not be brought to the police station as evidence. They should be photographed and returned to the storekeeper. The case number and date should be shown in the photograph. When possible, price tags shall be retained to show the value of the items taken. No perishable items will not be retained for safekeeping since we have no sanitary means to store them. Perishable items shall be disposed of by the officer and not be booked into the property room.
- (h) Items submitted for processing for Latent Fingerprints - These items shall be packaged in such a manner that the property and evidence technician will be able to remove them from the temporary storage lockers without contaminating the items(s) with their own fingerprints. The "Process Evidence" box on the property report should be checked.
- (i) Trace Evidence - Items that are suspected to contain trace evidence shall be packaged and sealed in such a manner to protect them from any cross contamination with any other items, and to ensure that the suspected trace evidence is not lost during transportation and storage.
- (j) Bio-hazards - Any item that is suspected to contain any bodily fluid, or is in any way suspected of representing a threat to personnel, who may handle the item, must be clearly marked as such. The property report shall also have a notation that a bio-hazard is suspected. This designation can be accomplished with the provided "Bio-Hazard" labels, or clear and prominent labeling by the submitting officer. The property room should not be considered a conduit for the disposal of bio-hazard materials. Officers who come into possession of such items that are not of any evidentiary value shall dispose of the item(s) at the Stanford Hospital Emergency room.

#### 804.4.1 PACKAGING CONTAINER

For most items submitted into property, no special packaging is required. Items should be marked with the case number and the item number.

Employees shall package all property, except narcotics and dangerous drugs in a suitable container available for its size.

It shall be the responsibility of the Property Technician to package the items for storage in a manner that preserves the evidentiary value and conserves space in the property room.

#### 804.4.2 PACKAGING NARCOTICS

The officer seizing narcotics and dangerous drugs shall retain such property in his/her possession until it is properly weighed, packaged, tagged, and placed in the designated narcotics locker, accompanied by two copies of the property record. Prior to packaging and if the quantity allows, a presumptive test should be made on all suspected narcotics. If conducted, the results of this test shall be included in the officer's report.

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Narcotics and dangerous drugs shall be packaged in a heat sealed bags. For substances that require laboratory analysis, the submitting officer shall fill out the label on the bag, enclose the substance in question, seal the bag, write their initials over the seal, and record the GROSS weight of the bag on the label. The chain of evidence shall be recorded on the label.

Narcotics and dangerous drugs shall not be packaged with other property.

#### **804.5 RECORDING OF PROPERTY**

The Property and Evidence Technician receiving custody of evidence or property shall record his/her signature, the date and time the property was received and where the property will be stored on the property report.

An item number shall be obtained for each item or group of items. This number shall be recorded on property tag and the property report

Any changes in the location of property held by the Palo Alto Police Department shall be noted on the property report.

#### **804.6 PROPERTY CONTROL**

Each time the Property Technician receives property or releases property to another person, he/she shall enter this information on the property report. Officers desiring property for court shall contact the Property Technician at least one day prior to the court day.

##### **804.6.1 RESPONSIBILITY OF OTHER PERSONNEL**

Request for analysis for items other than narcotics or drugs shall be completed on the appropriate forms and submitted to the Property Technician. This request may be filled out any time after booking of the property or evidence.

##### **804.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY**

Items requiring laboratory analysis shall be turned into the property room. The officer shall indicate on the property report what type of analysis is required. It shall be the responsibility of the Property Technician to take items requiring analysis to the laboratory at least once per week, and more often if required. All items taken to the lab shall be recorded in the crime lab log book maintained in the property room. While at the lab, the Property Technician shall pick up and return to the property room all items on which a lab examination has been completed. These items shall be placed in the property room.

##### **804.6.3 STATUS OF PROPERTY**

Each person receiving property will make the appropriate entry to document the chain of evidence. Temporary release of property to officers for investigative purposes, or for court, shall be noted on the property report, stating the date, time and to whom released.

The Property Technician shall obtain the signature of the person to whom property is released, and the reason for release. Any employee receiving property shall be responsible for such property, until it is properly returned to property or properly released to another authorized person or entity.

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The return of the property should be recorded on the property report, indicating date, time, and the person who returned the property.

#### 804.6.4 AUTHORITY TO RELEASE PROPERTY

The Investigative Services shall authorize the disposition or release of all evidence and property coming into the care and custody of the Department.

#### 804.6.5 RELEASE OF PROPERTY

All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation.

Release of property shall be made upon receipt of an authorized release form, listing the name and address of the person to whom the property is to be released. The release authorization shall be signed by the authorizing supervisor or detective and must conform to the items listed on the property form or must specify the specific item(s) to be released. Release of all property shall be documented on the property form.

With the exception of firearms and other property specifically regulated by statute, found property and property held for safekeeping shall be held for a minimum of 90 days. During such period, property personnel shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. Property not held for any other purpose and not claimed within 90 days after notification (or receipt, if notification is not feasible) may be auctioned to the highest bidder at a properly published public auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed (Civil Code § 2080.6). The final disposition of all such property shall be fully documented in related reports.

A property and evidence technician shall release the property upon proper identification being presented by the owner for which an authorized release has been received. A signature of the person receiving the property shall be recorded on the original property form. After release of all property entered on the property control card, the card shall be forwarded to the Technical Services Division for filing with the case. If some items of property have not been released the property card will remain with the Property and Evidence Section. Upon release, the proper entry shall be documented in the Property Log.

Under no circumstances shall any firearm be returned to any individual unless and until such person presents valid identification and written notification from the California Department of Justice that conforms to the provisions of Penal Code § 33865.

The Property and Evidence Section Supervisor should also make reasonable efforts to determine whether the person is the subject of any court order preventing the person from possessing a firearm and if so, the firearm should not be released to the person while the order is in effect.

The Department is not required to retain any firearm or other deadly weapon longer than 180 days after notice has been provided to the owner that such firearm or other deadly weapon is available for return. At the expiration of such period, the firearm or other deadly weapon may be processed for disposal in accordance with applicable law (Penal Code § 33875).



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#### 804.6.6 DISPUTED CLAIMS TO PROPERTY

Occasionally more than one party may claim an interest in property being held by the Department, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a valid court order or other undisputed right to the involved property.

All parties should be advised that their claims are civil and in extreme situations, legal counsel for the Department may wish to file an interpleader to resolve the disputed claim (Code of Civil Procedure § 386(b)).

#### 804.6.7 RELEASE OF FIREARM IN DOMESTIC VIOLENCE MATTERS

Within five days of the expiration of a restraining order issued in a domestic violence matter that required the relinquishment of a firearm, the property and evidence technician shall return the weapon to the owner if the requirements of Penal Code § 33850 and Penal Code § 33855 are met unless the firearm is determined to be stolen, evidence in a criminal investigation or the individual is otherwise prohibited from possessing a firearm (Family Code 6389(g); Penal Code § 33855).

#### 804.6.8 RELEASE OF FIREARMS AND WEAPONS IN MENTAL ILLNESS MATTERS

Firearms and other deadly weapons confiscated from an individual detained for an evaluation by a mental health professional or subject to the provisions of Welfare and Institutions Code § 8100 or Welfare and Institutions Code § 8103 shall be released or disposed of as follows:

- (a) If a petition for a hearing regarding the return of the weapon has been initiated pursuant to Welfare and Institutions Code § 8102(c), the weapon shall be released or disposed of as provided by an order of the court. If the court orders a firearm returned, the firearm shall not be returned unless and until the person presents valid identification and written notification from the California Department of Justice (DOJ) which conforms to the provisions of Penal Code § 33865.
- (b) If no petition has been initiated pursuant to Welfare and Institutions Code § 8102(c) and the weapon is not retained as evidence, the Department shall make the weapon available for return. No firearm will be returned unless and until the person presents valid identification and written notification from the California DOJ which conforms to the provisions of Penal Code § 33865.
- (c) Unless the person contacts the Department to facilitate the sale or transfer of the firearm to a licensed dealer pursuant to Penal Code § 33870, firearms not returned should be sold, transferred, destroyed or retained as provided in Welfare and Institutions Code § 8102.

#### 804.6.9 WITHDRAWAL AND RETURN OF EVIDENCE

An integral part of effective management of a property/evidence function is adequate control and recording of withdrawal and return of evidence. Transferring possession of evidence from one person to another is known as the chain of possession. Accurate records of each change of possession are paramount for prevention of tainted evidence, loss of evidence and for effective prosecution of a case. Properly controlled chain of possession of evidence and also prevent embarrassment to the Department and discipline of employees. Adherence to the procedures

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set forth in this policy will result in the complete recording of each change of possession and location of all evidence. The last person in the chain shall be the person who has custody of and is responsible for the proper care and preservation of the evidence.

#### DEFINITIONS:

**INTRA-AGENCY:** The property/evidence does not leave the Palo Alto Police Department (i.e., viewing for identification).

**INTER-AGENCY:** The property/evidence does leave the Palo Alto Police Department (i.e., laboratory examination or court).

**RETURN OF PROPERTY:** Return of property as used in this order, means return to the custody of the Property Technician.

#### 804.6.10 PROCEDURE

(a) Withdrawal for intra-agency reasons:

1. **Who Can Request Withdrawal** - only the employee assigned to investigate a case or an employee authorized by that person will be permitted to withdraw evidence;
2. **Advance Notice** - the employee desiring to withdraw evidence will give the Property Technician advance notice of which evidence is needed and when it is needed;
3. **Property Technician Responsibility** - the Property Technician will retrieve the evidence from storage and assemble it for release at the pre-arranged time. The Property Technician will indicate, in the chain of possession portion of the property report, the items being released, reason for release, name of employee to whom evidence is released, and date. The employee receiving the evidence will sign the record acknowledging receipt. The property report will be placed in a suspense file to insure timely return of the property;
4. **Photos and/or Latent Prints** - personnel removing photos and/or latent prints from a file will sign out for each item removed. Sign out cards will be placed in the suspense file to insure timely return.

(b) Withdrawal for inter-agency reasons: In addition to 1-4 above, the following will also occur whenever the property is withdrawn for inter-agency purposes:

1. **Transfer Documentation** - the Property Technician will prepare a "Property Transfer Form." The Property Transfer Form will be completed to show the Department report number, the name of the person withdrawing the property, the destination of the property, the Property Report item number and the description of the property.
  - (a) The Property Transfer Form will accompany the property to its destination. The person to whom the property is delivered will sign the form before the property is released;

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- (b) The signed Property Transfer Form will be returned to the Property Technician by the employee who withdrew the property. The Property Technician will attach the returned, signed Property Transfer Form to the back of the property report;
  - (c) Per County Grand Jury when released to court, a court official must sign for the property.
- (c) **Return of evidence:** Property Technician: Present - the returned evidence will be given directly to the Property Technician when possible. The Property Technician will retrieve the property report, ascertain that all items are accounted for, enter the date and time received on the record and sign for the return of the evidence.
  - (a) **Property Technician Absent** - the returned evidence will be secured in a temporary storage locker when the Property Technician is not available. The evidence will later be removed from the locker by the Property Technician, who will ascertain that all items are accounted for. The Property Technician will then enter the date and time on the property report and sign for the return of the evidence.
  - (b) **Discrepancies** - the Investigative Services Division supervisor will be notified as soon as possible of any discrepancies between the evidence withdrawn and the evidence returned.

#### 804.7 DISPOSITION OF PROPERTY

All property not held for evidence in a pending criminal investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The property and evidence technician shall request a disposition or status on all property which has been held in excess of 120 days, and for which no disposition has been received from a supervisor or detective.

##### 804.7.1 EXCEPTIONAL DISPOSITIONS

The following types of property shall be destroyed or disposed of in the manner, and at the time prescribed by law, unless a different disposition is ordered by a court of competent jurisdiction:

- Weapons declared by law to be nuisances (Penal Code §§ 29300; 18010; 32750)
- Animals, birds, and related equipment that have been ordered forfeited by the court (Penal Code § 599a)
- Counterfeiting equipment (Penal Code § 480)
- Gaming devices (Penal Code § 335a)
- Obscene matter ordered to be destroyed by the court (Penal Code § 312)
- Altered vehicles or component parts (Vehicle Code § 10751)

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- Narcotics (Health and Safety Code § 11474, etc.)
- Unclaimed, stolen or embezzled property (Penal Code § 1411)
- Destructive devices (Penal Code § 19000)

#### 804.7.2 UNCLAIMED MONEY

If found or seized money is no longer required as evidence and remains unclaimed after three years, the Department shall cause a notice to be published each week for a period of two consecutive weeks in a local newspaper of general circulation (Government Code § 50050). Such notice shall state the amount of money, the fund in which it is held and that the money will become the property of the agency on a designated date not less than 45 days and not more than 60 days after the first publication (Government Code § 50051).

Any individual item with a value of less than \$15.00, or any amount if the depositor/owner's name is unknown, which remains unclaimed for a year or by order of the court, may be transferred to the general fund without the necessity of public notice (Government Code § 50055).

If the money remains unclaimed as of the date designated in the published notice, the money will become the property of this department to fund official law enforcement operations. Money representing restitution collected on behalf of victims shall either be deposited into the Restitution Fund or used for purposes of victim services.

#### 804.7.3 RETENTION OF BIOLOGICAL EVIDENCE

The Property and Evidence Section Supervisor shall ensure that no biological evidence held by the Department is destroyed without adequate notification to the following persons, when applicable:

- (a) The defendant
- (b) The defendant's attorney
- (c) The appropriate prosecutor and Attorney General
- (d) Any sexual assault victim
- (e) The Investigative Services Division supervisor

Biological evidence shall be retained for a minimum period established by law (Penal Code § 1417.9), the Property and Evidence Section Supervisor or the expiration of any sentence imposed related to the evidence, whichever time period is greater. Following the retention period, notifications should be made by certified mail and should inform the recipient that the evidence will be destroyed after a date specified in the notice unless a motion seeking an order to retain the sample is filed and served on the Department within 90 days of the date of the notification. A record of all certified mail receipts shall be retained in the appropriate file. Any objection to, or motion regarding, the destruction of the biological evidence should be retained in the appropriate file and a copy forwarded to the Investigative Services Division supervisor.

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the Chief of Police and the head of the applicable prosecutor's office.

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Biological evidence from an unsolved sexual assault should not be disposed of prior to expiration of the statute of limitations. Even after expiration of an applicable statute of limitations, the Investigative Services Division supervisor should be consulted and the sexual assault victim should be notified.

#### 804.7.4 AUTHORITY FOR DISPOSAL PROCEDURE

Upon a confirmed determination of a case's final adjudication, the Property Technician will review the original police report to ascertain the appropriate disposition of property/evidence as described in this order. In the instances where it is not clear, based on the police report, whom the property should be released to, or if it should be considered contraband, the Property Technician will route a Property Release Authorization Form to the investigating officer seeking written direction as to how to proceed with the disposition of the property/evidence.

If the investigating officer determines that the property/evidence should not be released, they shall indicate the reason for retention on the form, and route it to the Property Technician.

#### 804.7.5 RETURN OF PROPERTY TO OWNER OR CLAIMANT

Upon a determination that property/evidence should be returned to an owner or claimant, the Property Technician will prepare a property release notice letter and mail it to the owner of the property.

- (a) **Owner Responds** - if the owner of the property responds, the property will be released only after proof of ownership and satisfactory identification have been presented to the Property Technician. Proof of ownership may be determined by possession of receipt, bill of sale, court decision, or undisputed claim to right of the property. Driver's licenses, passports, military identification or other identification with a photograph is considered satisfactory identification. If the property owner has no identification bearing a photograph, the Property Technician will determine whether or not identification is satisfactory.
  1. The Property Technician will require the owner of the property to sign the property record upon taking possession of the property.
- (b) **Owner Does Not Respond** - if the owner does not claim the property within 30 days after notification is mailed, the property will be disposed of in accordance with the provisions of this order.
- (c) **Ownership Uncertain** - when ownership of property which is believed to be stolen or embezzled cannot be ascertained and a Property Release Authorization Form has been received, the Property Technician will send a notice to the person from whom the property was taken.
  1. The notice will advise the recipient that, pursuant to Penal Code § 1408, the court may be petitioned to claim ownership and the property will be disposed of by the police Department thirty days after the date of notice unless a court order, declaring ownership, pursuant to Penal Code § 1411, is received.

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2. Property will not be disposed of until the period for appeals has closed and all appeals have been concluded.

#### 804.7.6 DISPOSAL BY SALE/AUCTION

- (a) **Unclaimed Property** - property which is not claimed by the owner may be sold at auction in accordance with Palo Alto Municipal Code § 2.30.170
- (b) **Auctions** - will be arranged by the Purchasing Department. The Property Technician will complete a "Surplus Supplies & Equipment" form listing the property to be sold and deliver the form and property to the Stores facility at the Municipal Service Center. He/she will obtain the signature of the Stores facility staff acknowledging receipt of the property and retain a copy of the surplus supplies form.

#### 804.7.7 DISPOSAL BY AGENCY USE

Civil Code § 2080.4 and Penal Code § 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 the agency or other public use, rather than being sold or destroyed (Penal Code §§ 12028 and 12030 provide the authority for acquisition of firearms for agency use). Requests for retention of property for Department use will be recorded on a "Surplus Property Form" with the statement "Request retention of listed property for Department use pursuant to Civil Code § 2080.4, and Penal Code § 1411. The request will be signed by the Chief of Police and the Director of Purchasing. A copy of the Surplus Supplies Form shall be retained in the property room.

- (a) **Firearms** - if the property to be retained by the Department is a firearm, the Property Technician will also cause an entry to be made into the Department of Justice automated firearms system institution file.
- (b) **Personal Use** - under no circumstances will property acquired as evidence or found property be used for personal or non-Departmental purposes.

#### 804.7.8 DISPOSAL BY DESTRUCTION

- (a) Controlled Substances and Associated Paraphernalia
  1. **Destruction Pursuant to a Court Order** - drugs to be destroyed will be recorded on a drug destruction log and placed in a box for destruction. The Investigative Services Division Property Crimes Supervisor or their designee and Property Technician will inventory the drugs when the box is full. When all drugs listed on the destruction log are accounted for, the box will be sealed with tamper-proof tape. The supervisor and Property Technician will date and sign the seal.
  2. The Property Technician will make application for a court order to destroy all controlled substances and associated paraphernalia except as provided in paragraph D-2 of this general order. The application will list descriptions, quantities, weights, docket number and the defendant's name for each item to be destroyed.

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Upon receipt of the court order, the Property Technician will arrange for the material to be destroyed as follows:

- (a) By burning or another method approved by the Department head or designee. The destruction of the material will be witnessed by at least the Property Technician and two armed detectives from ISD.
3. Destruction will be accomplished on an as needed basis.
  4. **Destruction Not Pursuant to a Court Order** - in instances when the weight of a suspected controlled substance is substantial and it is not reasonably possible to preserve the material in place or move it to another location. Controlled substance in excess of ten pounds, or the hazardous chemical, which was used or intended for use in the unlawful manufacture of controlled substances, and are in excess of two ounces and its container may be destroyed without a court order when all of the following conditions have been met:
    - (b) At least five random and representative samples of the suspected controlled substance (ten or more pounds) have been taken for evidence, and;
    - (c) At least one 2-ounce sample has been taken from each suspected hazardous chemical, and;
    - (d) Photographs have been taken which reasonably demonstrate the total amount of the suspected controlled substance or suspected hazardous chemical container, and;
    - (e) The gross weight of the suspected controlled substance or suspected hazardous chemical has been determined by either weighing or estimating after dimensional measurement, and;
    - (f) The Police Chief or designee has determined that it is not reasonably possible to preserve all of the suspected controlled substance or suspected hazardous chemical in place or suspected hazardous chemical in place or to move it to another location.
    - (g) An affidavit, stating that the above conditions have been met, will be filed in court within thirty days following the destruction of the suspected controlled substance or suspected hazardous chemical by the person causing the destruction.
    - (h) Records concerning the details of the compliance with Health and Safety Code § 11479 will be filed with the case report.

#### 804.7.9 FIREARMS AND WEAPONS

Firearms defined as "Nuisances" by Penal Code § 12028 be destroyed by the Department. Destruction of firearms and weapons will be accomplished by melting, chopping, or some other means as equally destructive, in the presence of the Property Technician and will be witnessed by at least two armed police officers.

The Property Technician will prepare and retain a list of all firearms and weapons which have been destroyed. The list will contain the make, model, type, caliber and serial number of each weapon destroyed and will be dated and signed by the Property Technician and witness. A copy of

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the list will be given to the Records Manager, who will be responsible for updating the automated firearms system.

The Property Technician will record the destruction date of each firearm/weapon on the original property sheet and sign each.

Weapons defined as "Destructive Devices" by Penal Code § 12301 and machine guns described in Penal Code § 12251, 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 California Department of Justice stating that the preservation of such destructive devices or machine guns is necessary to serve the ends of justice.

### **804.8 INSPECTIONS OF THE EVIDENCE ROOM**

Internal audits of the property and evidence in storage will be performed periodically, no less than twice a year, by police personnel. Such audits will be unannounced for the purpose of ensuring integrity of the property/evidence system. Audits will be performed under the auspices of the Investigative Services Division Captain, who will submit a written report to the Chief of Police. Any discrepancies found will be thoroughly investigated and corrective action taken if necessary.

Audits by the City Auditor or other independent party authorized by the Chief shall be conducted at least once a year.

### **804.9 SECURITY OF STORAGE AREAS**

Property storage areas will be secured during all non-business hours and during business hours whenever the Property Technician is absent. The Property Technician and/or other authorized persons will be responsible for securing all areas upon leaving. When the Property Technician is absent the property storage areas may only be entered when:

- (a) Emergency - a circumstance of emergency exists or access is necessary to store or retrieve property which cannot wait for the availability of the Property Technician.
- (b) Authorization - the person entering the storage area must be authorized by the Investigative Services Division (ISD) Captain.
  - 1. Exception - an exception to the above two provisions is that the Watch Commander has access to the small storage cage for the purpose of storing large items in the absence of the Property Technician.
- (c) Property Storage area keys: Only the following keys to the property storage areas are authorized:
  - 1. One complete set of keys (to the main property room, supplementary storage areas, all temporary storage lockers and the alarm system) will be assigned to the Property Technicians;
  - 2. One complete duplicate set of keys will be assigned to the ISD Captain and kept in a secured designated place;



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3. One key to the temporary storage room will be assigned to the Watch Commander;
4. Duplications or possession of keys to the property storage areas' alarms is prohibited without the express permission of the ISD Captain and the Chief of Police;
5. Locks to the property storage areas and the property storage areas' alarm system will be re-keyed and the safe combination changed whenever a Property Technician is reassigned.

#### 804.9.1 REPORTING OF SUSPICIOUS CIRCUMSTANCES

The Property Technician will notify the Investigative Services Division (ISD) Captain immediately upon discovery of any signs of tampering, unauthorized entry, or other suspicious circumstances and will initiate a case report with complete details.

The ISD Captain will review the report and cause a formal investigation to be initiated if warranted.

## Technical Services Division Procedures

### 806.1 PURPOSE AND SCOPE

The Records Manager shall maintain the Department Technical Services Division Procedures Manual on a current basis to reflect the procedures being followed within the Technical Services Division. Policies and procedures that apply to all employees of this department are contained in this chapter.

#### 806.1.1 NUMERICAL FILING SYSTEM

Case reports are filed numerically within the Technical Services Division by Technical Services Division personnel.

Reports are numbered commencing with the last two digits of the current year followed by a sequential number beginning with 00001 starting at midnight on the first day of January of each year. As an example, case number YY-00001 would be the first new case beginning January 1 of a new year.

### 806.2 FILE ACCESS AND SECURITY

All reports including, but not limited to, initial, supplemental, follow-up, evidence, and all reports critical to a case shall be maintained in a secure area within the Technical Services Division accessible only to authorized Technical Services Division personnel. Access to report files after hours or when records personnel are otherwise not available may be obtained through the Watch Commander.

Palo Alto Police Department employees shall not access, view or distribute, or allow anyone else to access, view or distribute any record, file or report, whether hard copy or electronic file format, except in accordance with department policy and with a legitimate law enforcement or business purpose or as otherwise permissible by law.

#### 806.2.1 REQUESTING ORIGINAL REPORTS

Generally, original reports shall not be removed from the Technical Services Division. Should an original report be needed for any reason the requesting employee shall first obtain authorization from the Records Manager. All original reports removed from the Technical Services Division shall be recorded on the Report Check-Out Log which shall constitute the only authorized manner by which an original report may be removed from the Technical Services Division.

### 806.3 REQUISITION OF SUPPLIES

All personnel who are in need of supplies shall request supplies from the Technical Services Staff Secretary.

### 806.4 DETERMINATION OF FACTUAL INNOCENCE

In any case where a person has been arrested by officers of the Palo Alto Police Department and no accusatory pleading has been filed, the person arrested may petition the Department to destroy the related arrest records. Petitions should be forwarded to the Administrative Services

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Supervisor. The Administrative Services Supervisor should promptly contact the prosecuting attorney and request a written opinion as to whether the petitioner is factually innocent of the charges (Penal Code § 851.8). Factual innocence means the accused person did not commit the crime.

Upon receipt of a written opinion from the prosecuting attorney affirming factual innocence, the Administrative Services Supervisor should forward the petition to the Investigative Services Supervisor and the City Attorney for review. After such review and consultation with the City Attorney, the Investigative Services Supervisor and the Administrative Services Supervisor shall decide whether a finding of factual innocence is appropriate.

Upon determination that a finding of factual innocence is appropriate, the Administrative Services Supervisor shall ensure that the arrest record and petition are sealed for later destruction and the required notifications are made to the California Department of Justice and other law enforcement agencies (Penal Code § 851.8).

The Administrative Services Supervisor should respond to a petition with the Department's decision within 45 days of receipt. Responses should include only the decision of the Department, not an explanation of the analysis leading to the decision.

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## Restoration of Firearm Serial Numbers

### 808.1 PURPOSE AND SCOPE

The primary purpose for restoring firearm serial numbers is to determine the prior owners or origin of the item from which the number has been recovered. Thus, property can be returned to rightful owners or investigations can be initiated to curb illegal trade of contraband firearms. The purpose of this plan is to develop standards, methodologies, and safety protocols for the recovery of obliterated serial numbers from firearms and other objects using procedures that are accepted as industry standards in the forensic community. All personnel who are involved in the restoration of serial numbers will observe the following guidelines. This policy complies with Penal Code § 11108.9.

### 808.2 PROCEDURE

Any firearm coming into the possession of the Palo Alto Police Department as evidence, found property, etc., where the serial numbers have been removed or obliterated will be processed in the following manner:

#### 808.2.1 PRELIMINARY FIREARM EXAMINATION

- (a) Always keep the muzzle pointed in a safe direction. Be sure the firearm is in an unloaded condition. This includes removal of the ammunition source (e.g., the detachable magazine, contents of the tubular magazine) as well as the chamber contents.
- (b) If the firearm is corroded shut or in a condition that would preclude inspection of the chamber contents, treat the firearm as if it is loaded. Make immediate arrangements for a firearms examiner or other qualified examiner to render the firearm safe.
- (c) Accurately record/document the condition of the gun when received. Note the positions of the various components such as the safeties, cylinder, magazine, slide, hammer, etc. Accurately record/document cylinder chamber and magazine contents. Package the ammunition separately.
- (d) If the firearm is to be processed for fingerprints or trace evidence, process before the serial number restoration is attempted. First record/document important aspects such as halos on the revolver cylinder face or other relevant evidence that might be obscured by the fingerprinting chemicals.

#### 808.2.2 PROPERTY BOOKING PROCEDURE

Any employee taking possession of a firearm with removed/obliterated serial numbers shall book the firearm into property following standard procedures. The employee booking the firearm shall indicate on the property form that serial numbers have been removed or obliterated.

## *Restoration of Firearm Serial Numbers*

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### **808.2.3 OFFICER RESPONSIBILITY**

The property and evidence technician receiving a firearm when the serial numbers have been removed or obliterated shall arrange for the firearm to be transported to the crime lab for restoration and maintain the chain of evidence.

### **808.2.4 DOCUMENTATION**

Case reports are prepared in order to document the chain of custody and the initial examination and handling of evidence from the time it is received/collected until it is released.

This report must include a record of the manner in which and/or from whom the firearm was received. This may appear on the request form or property form depending on the type of evidence.

### **808.2.5 FIREARM TRACE**

After the serial number has been restored (or partially restored) by the criminalistics laboratory, the property and evidence technician will complete a Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) National Tracing Center (NTC) Obliterated Serial Number Trace Request Form (ATF 3312.1-OBL) and forward the form to the NTC in Falling Waters, West Virginia or enter the data into the ATF eTrace system.

### **808.3 BULLET AND CASING IDENTIFICATION**

Exemplar bullets and cartridge cases from the firearm, depending upon acceptance criteria and protocol, may be submitted to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) National Integrated Ballistic Information Network (NIBIN) which uses the Integrated Ballistic Identification System (IBIS) technology to search the national database and compare with ballistic evidence recovered from other crime scenes.

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## Release of Records and Information

### 810.1 PURPOSE AND SCOPE

The purpose of this section is to establish a comprehensive reference and procedure for the maintenance and release of Department reports and records in accordance with applicable law and City Policy 1-43/CLK (See appendix for reference chart).

### 810.2 PUBLIC REQUESTS FOR RECORDS

The California Public Records Act (Government Code § 6250, et seq.) provides that records created by a public agency shall be subject to inspection and release pursuant to request, except pursuant to exemptions set forth in the Act or otherwise established by statute. Public requests for records of this department shall be processed as follows:

#### 810.2.1 PROCESSING OF REQUESTS

Any member of the public, including the media and elected officials, may access unrestricted records of this department by submitting a written and signed request for each record sought and paying any associated fees (Government Code § 6253).

The processing of requests is subject to the following limitations:

- (a) The employee processing the request shall determine if the requested record is available and, if so, whether the record is exempt from disclosure. Either the requested record or the reason for non-disclosure will be provided promptly, but no later than 10 days from the date of request, unless unusual circumstances preclude doing so. If more time is needed, an extension of up to 14 additional days may be authorized by the Chief of Police or the authorized designee. If an extension is authorized, the Department shall provide written notice of the extension to the requesting party (Government Code § 6253(c)).
- (b) In accordance with the Public Records Act, the Department is not required to create records that do not otherwise exist in order to accommodate a request under the Act.

Requests by elected officials for records that are not open to public inspection should be referred to the Administrative Services Division Captain for a determination as to whether the records will be released.

### 810.3 REPORT RELEASE RESTRICTIONS

Absent a valid court order or other statutory authority, records and/or unrestricted portions of such records of this department shall be made public subject to the following restrictions:

#### 810.3.1 GENERAL CASE AND CRIME REPORTS

Reports containing any of the items listed below will not be released:

- (a) **Victim information** - Victims of crimes who have requested that their identifying information be kept confidential, victims who are minors and victims of certain offenses (e.g., sex crimes, Penal Code § 293) shall not be made public. No employee shall disclose to any arrested

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person or to any person who may be a defendant in a criminal action the address or telephone number of any person who is a victim or witness in the alleged offense, unless it is required by law (Penal Code § 841.5).

- (b) **Confidential information** - Information involving confidential informants, intelligence information, information that would endanger the safety of any person involved or information that would endanger the successful completion of the investigation or a related investigation shall not be made public.
  - 1. Analysis and conclusions of investigating officers may also be exempt from disclosure.
  - 2. If it has been noted in any report that any individual wishes to protect his/her right to privacy under the California Constitution, such information may not be subject to public disclosure.
- (c) **Specific crimes** - Certain types of reports involving, but not limited to, **child abuse/molestation** (Penal Code § 11167.5), **elder abuse** (Welfare and Institutions Code § 15633) and **juveniles** (Welfare and Institutions Code § 827) shall not be made public.
- (d) **General information** - Absent statutory exemption to the contrary or other lawful reason to deem information from reports confidential, information from unrestricted agency reports shall be made public as outlined in Government Code § 6254(f).
- (e) **Deceased juvenile crime victims** - The Code of Civil Procedure § 130 limits the dissemination of autopsy and private medical information concerning a murdered child by allowing families to request that the autopsy report of the victim be sealed from public inspection. Such requests shall be honored, with the exceptions that allow dissemination of those reports to law enforcement agents, prosecutors, defendants or civil litigants under state and federal discovery laws (Code of Civil Procedure §130).

#### 810.3.2 ARREST REPORTS

Arrestee information shall be subject to release in the same manner as information contained in other reports as set forth above.

In addition to the restrictions stated above, all requests from criminal defendants and their authorized representatives (including attorneys) shall be referred to the District Attorney, City Attorney or the courts pursuant to Penal Code § 1054.5.

Local criminal history information including, but not limited to, arrest history and disposition, and fingerprints shall only be subject to release to those agencies and individuals set forth in Penal Code § 13300.

#### 810.3.3 TRAFFIC COLLISION REPORTS

Traffic collision reports (and related supplemental reports) shall be considered confidential and subject to release only to the California Highway Patrol, Department of Motor Vehicles (DMV),

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other law enforcement agencies and those individuals and their authorized representatives set forth in Vehicle Code § 20012.

#### 810.3.4 PERSONNEL RECORDS

Personnel records, medical records and similar records which would involve personal privacy shall not be made public (Government Code § 6254((c)); Penal Code § 832.7; Penal Code § 832.8).

Peace officer personnel records are deemed confidential (Penal Code § 832.7, et seq.) and shall not be made public or otherwise released to unauthorized individuals or entities absent a valid court order (Evidence Code § 1043, et seq.).

The identity of any officer subject to any criminal or administrative investigation shall not be released without the consent of the involved officer, prior approval of the Chief of Police or as required by law.

#### 810.3.5 CONCEALED WEAPONS PERMITS

Information contained in CCW permit applications or other files which would tend to reveal where the applicant is vulnerable or which contains medical or psychological information shall not be made public (Government Code § 6254(u)).

#### 810.3.6 DOMESTIC VIOLENCE REPORTS

Victims of domestic violence or their representative shall be provided, without charge, one copy of all domestic violence incident report face sheets, one copy of all domestic violence incident reports, or both, pursuant to the requirements and time frames of Family Code § 6228.

### **810.4 OTHER RECORDS**

Any other record not addressed in this policy shall not be subject to release where such record is exempt or prohibited from disclosure pursuant to state or federal law, including, but not limited to, provisions of the Evidence Code relating to privilege or to the security of the department's electronic technology systems (Government Code § 6254(k); Government Code 6254.19).

The Department maintains the right to refuse to disclose or release any other record when it would appear that the public's interest in accessing such record is outweighed by the need for nondisclosure (Government Code § 6255).

Any record which was created exclusively in anticipation of potential litigation involving this department shall not be subject to public disclosure (Government Code § 6254(b)).

#### 810.4.1 PERSONAL IDENTIFYING INFORMATION

Employees shall not access, use or disclose personal identifying information, including an individual's photograph, social security number, driver identification number, name, address, telephone number and the individual's medical or disability information, which is contained in any driver license record, motor vehicle record or any department record except as authorized by the Department and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721 and 18 USC § 2722).



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### **810.5 SUBPOENA DUCES TECUM**

Any Subpoena Duces Tecum (SDT) should be promptly provided to a supervisor for review and processing. While a Subpoena Duces Tecum may ultimately be subject to compliance, it is not an order from the Court that will automatically require the release of the requested information.

All questions regarding compliance with any Subpoena Duces Tecum should be promptly referred to legal counsel for the Department so that a timely response can be prepared.

### **810.6 RELEASED RECORDS TO BE STAMPED**

Each page of any record released pursuant to a Public Records Act request or Subpoena Duces Tecum shall be stamped in red ink with a departmental stamp identifying the individual to whom the record was released.

### **810.7 SECURITY BREACHES**

The Records Manager shall ensure notice is given anytime there is a reasonable belief an unauthorized person has acquired unencrypted personal identifying information stored in any Department information system (Civil Code § 1798.29).

Notice shall be given as soon as reasonably practicable to all individuals whose information may have been acquired. The notification may be delayed if the Department determines that notification will impede a criminal investigation or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

For the purposes of this requirement, personal identifying information includes an individual's first name or first initial and last name in combination with any one or more of the following:

- Social security number
- Driver license number or California identification card number
- Account number, credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual's financial account
- Medical information
- Health insurance information
- A user name or email address, in combination with a password or security question and answer that permits access to an online account

#### **810.7.1 FORM OF NOTICE**

- (a) The notice shall be written in plain language and include, to the extent possible, the following:
1. The date of the notice.
  2. Name and contact information for the Palo Alto Police Department.
  3. A list of the types of personal information that were or are reasonably believed to have been acquired.

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### *Release of Records and Information*

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4. The estimated date or date range within which the security breach occurred.
  5. Whether the notification was delayed as a result of a law enforcement investigation.
  6. A general description of the security breach.
  7. The toll-free telephone numbers and addresses of the major credit reporting agencies, if the breach exposed a social security number or a driver's license or California identification card number.
- (b) The notice may also include information about what the Palo Alto Police Department has done to protect individuals whose information has been breached and may include information on steps that the person whose information has been breached may take to protect him/herself.
- (c) When a breach involves an online account, and only a user name or email address in combination with either a password or security question and answer that would permit access to an online account, and no other personal information has been breached:
1. Notification may be provided electronically or in another form directing the person to promptly change either his/her password or security question and answer, as applicable, or to take other appropriate steps to protect the online account with the Department in addition to any other online accounts for which the person uses the same user name or email address and password or security question and answer.

#### 810.7.2 MANNER OF NOTICE

- (a) Notice may be provided by one of the following methods:
1. Written notice.
  2. Electronic notice if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 USC § 7001.
  3. Substitute notice if the cost of providing notice would exceed \$250,000, the number of individuals exceeds 500,000 or the Department does not have sufficient contact information. Substitute notice shall consist of all of the following:
    - (a) Email notice, when the Department has an email address for the subject person.
    - (b) Conspicuous posting of the notice on the Department's webpage.
  4. Notification to major statewide media and the California Information Security Office within the California Department of Technology.
- (b) If a single breach requires the Department to notify more than 500 California residents, the Department shall electronically submit a sample copy of the notification, excluding any personally identifiable information, to the Attorney General.

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## Criminal Offender Record Information (CORI)

### 812.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the access, transmission, release and security of protected information by members of the Palo Alto Police Department. This policy addresses the protected information that is used in the day-to-day operation of the Department and not the public records information covered in the Records Release and Security Policy.

#### 812.1.1 DEFINITIONS

Definitions related to this policy include:

**Protected information** - Any information or data that is collected, stored or accessed by members of the Palo Alto Police Department and is subject to any access or release restrictions imposed by law, regulation, order or use agreement. This includes all information contained in federal, state or local law enforcement databases that is not accessible to the public.

### 812.2 POLICY

Members of the Palo Alto Police Department will adhere to all applicable laws, orders, regulations, use agreements and training related to the access, use, dissemination and release of protected information.

### 812.3 RESPONSIBILITIES

The Chief of Police shall select a member of the Department to coordinate the use of protected information.

The responsibilities of this position include, but are not limited to:

- (a) Ensuring member compliance with this policy and with requirements applicable to protected information, including requirements for the National Crime Information Center (NCIC) system, National Law Enforcement Telecommunications System (NLETS), Department of Motor Vehicle (DMV) records and California Law Enforcement Telecommunications System (CLETS).
- (b) Developing, disseminating and maintaining procedures that adopt or comply with the U.S. Department of Justice's current Criminal Justice Information Services (CJIS) Security Policy.
- (c) Developing, disseminating and maintaining any other procedures necessary to comply with any other requirements for the access, use, dissemination, release and security of protected information.
- (d) Developing procedures to ensure training and certification requirements are met.
- (e) Resolving specific questions that arise regarding authorized recipients of protected information.
- (f) Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.

## *Criminal Offender Record Information (CORI)*

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### **812.4 ACCESS TO PROTECTED INFORMATION**

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, Palo Alto Police Department policy or training. Only those members who have completed applicable training and met any applicable requirements, such as a background check, may access protected information, and only when the member has a legitimate work-related reason for such access.

Unauthorized access, including access for other than a legitimate work-related purpose, is prohibited and may subject a member to administrative action pursuant to the Personnel Complaints Policy and/or criminal prosecution.

#### **812.4.1 PENALTIES FOR MISUSE OF RECORDS**

It is a misdemeanor to furnish, buy, receive or possess Department of Justice criminal history information without authorization by law (Penal Code § 11143).

Authorized persons or agencies violating state regulations regarding the security of Criminal Offender Record Information (CORI) maintained by the California Department of Justice may lose direct access to CORI (11 CCR 702).

### **812.5 RELEASE OR DISSEMINATION OF PROTECTED INFORMATION**

Protected information may be released only to authorized recipients who have both a right to know and a need to know.

A member who is asked to release protected information that should not be released should refer the requesting person to a supervisor or to the Records Manager for information regarding a formal request.

Unless otherwise ordered or when an investigation would be jeopardized, protected information maintained by the Department may generally be shared with authorized persons from other law enforcement agencies who are assisting in the investigation or conducting a related investigation. Any such information should be released through the Technical Services Division to ensure proper documentation of the release (see the Records Release and Security Policy).

Protected information, such as Criminal Justice Information (CJI), which includes Criminal History Record Information (CHRI), should generally not be transmitted by radio, cellular telephone or any other type of wireless transmission to members in the field or in vehicles through any computer or electronic device, except via MDC, or in cases where there is an immediate need for the information to further an investigation or where circumstances reasonably indicate that the immediate safety of officers, other department members or the public is at risk.

Nothing in this policy is intended to prohibit broadcasting warrant information.

#### **812.5.1 REVIEW OF CRIMINAL OFFENDER RECORD**

Individuals requesting to review their own California criminal history information shall be referred to the Department of Justice (Penal Code § 11121).

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### *Criminal Offender Record Information (CORI)*

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Individuals shall be allowed to review their arrest or conviction record on file with the Department after complying with all legal requirements regarding authority and procedures in Penal Code § 11120 through Penal Code § 11127 (Penal Code § 13321).

#### **812.6 SECURITY OF PROTECTED INFORMATION**

The Chief of Police will select a member of the Department to oversee the security of protected information.

The responsibilities of this position include, but are not limited to:

- (a) Developing and maintaining security practices, procedures and training.
- (b) Ensuring federal and state compliance with the CJIS Security Policy and the requirements of any state or local criminal history records systems.
- (c) Establishing procedures to provide for the preparation, prevention, detection, analysis and containment of security incidents including computer attacks.
- (d) Tracking, documenting and reporting all breach of security incidents to the Chief of Police and appropriate authorities.

##### **812.6.1 MEMBER RESPONSIBILITIES**

Members accessing or receiving protected information shall ensure the information is not accessed or received by persons who are not authorized to access or receive it. This includes leaving protected information, such as documents or computer databases, accessible to others when it is reasonably foreseeable that unauthorized access may occur (e.g., on an unattended table or desk; in or on an unattended vehicle; in an unlocked desk drawer or file cabinet; on an unattended computer terminal).

#### **812.7 TRAINING**

All members authorized to access or release protected information shall complete a training program that complies with any protected information system requirements and identifies authorized access and use of protected information, as well as its proper handling and dissemination.

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## Computers and Digital Evidence

### 814.1 PURPOSE AND SCOPE

This policy establishes procedures for the seizure and storage of computers, personal communications devices (PCDs) digital cameras, digital recorders and other electronic devices that are capable of storing digital information; and for the preservation and storage of digital evidence. All evidence seized and/or processed pursuant to this policy shall be done so in compliance with clearly established Fourth Amendment and search and seizure provisions.

### 814.2 SEIZING COMPUTERS AND RELATED EVIDENCE

Computer equipment requires specialized training and handling to preserve its value as evidence. Officers should be aware of the potential to destroy information through careless or improper handling, and utilize the most knowledgeable available resources. When seizing a computer and accessories the following steps should be taken:

- (a) Photograph each item, front and back, specifically including cable connections to other items. Look for a phone line or cable to a modem for Internet access.
- (b) Do not overlook the possibility of the presence of physical evidence on and around the hardware relevant to the particular investigation such as fingerprints, biological or trace evidence, and/or documents.
- (c) If the computer is off, do not turn it on.
- (d) If the computer is on, do not shut it down normally and do not click on anything or examine any files.
  1. Photograph the screen, if possible, and note any programs or windows that appear to be open and running.
  2. Disconnect the power cable from the back of the computer box or if a portable notebook style, disconnect any power cable from the case and remove the battery).
- (e) Label each item with case number, evidence sheet number, and item number.
- (f) Handle and transport the computer and storage media (e.g., tape, discs, memory cards, flash memory, external drives) with care so that potential evidence is not lost.
- (g) Lodge all computer items in the Property Room. Do not store computers where normal room temperature and humidity is not maintained.
- (h) At minimum, officers should document the following in related reports:
  1. Where the computer was located and whether or not it was in operation.
  2. Who was using it at the time.
  3. Who claimed ownership.
  4. If it can be determined, how it was being used.

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- (i) In most cases when a computer is involved in criminal acts and is in the possession of the suspect, the computer itself and all storage devices (hard drives, tape drives, and disk drives) should be seized along with all media. Accessories (printers, monitors, mouse, scanner, keyboard, cables, software and manuals) should not be seized unless as a precursor to forfeiture.

### **814.2.1 BUSINESS OR NETWORKED COMPUTERS**

If the computer belongs to a business or is part of a network, it may not be feasible to seize the entire computer. Cases involving networks require specialized handling. Officers should contact a certified forensic computer examiner for instructions or a response to the scene. It may be possible to perform an on-site inspection, or to image the hard drive only of the involved computer. This should only be done by someone specifically trained in processing computers for evidence.

### **814.2.2 FORENSIC EXAMINATION OF COMPUTERS**

If an examination of the contents of the computer's hard drive, or floppy disks, compact discs, or any other storage media is required, forward the following items to a computer forensic examiner:

- (a) Copy of report(s) involving the computer, including the Evidence/Property sheet.
- (b) Copy of a consent to search form signed by the computer owner or the person in possession of the computer, or a copy of a search warrant authorizing the search of the computer hard drive for evidence relating to investigation.
- (c) A listing of the items to search for (e.g., photographs, financial records, e-mail, documents).
- (d) An exact duplicate of the hard drive or disk will be made using a forensic computer and a forensic software program by someone trained in the examination of computer storage devices for evidence.

### **814.3 SEIZING DIGITAL STORAGE MEDIA**

Digital storage media including hard drives, floppy discs, CD's, DVD's, tapes, memory cards, or flash memory devices should be seized and stored in a manner that will protect them from damage.

- (a) If the media has a write-protection tab or switch, it should be activated.
- (b) Do not review, access or open digital files prior to submission. If the information is needed for immediate investigation request the Property and Evidence Section to copy the contents to an appropriate form of storage media.
- (c) Many kinds of storage media can be erased or damaged by magnetic fields. Keep all media away from magnetic devices, electric motors, radio transmitters or other sources of magnetic fields.
- (d) Do not leave storage media where they would be subject to excessive heat such as in a parked vehicle on a hot day.
- (e) Use plastic cases designed to protect the media, or other protective packaging, to prevent damage.

## *Computers and Digital Evidence*

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### **814.4 SEIZING PCDS**

Personal communication devices such as cell phones, PDAs or other hand-held devices connected to any communication network must be handled with care to preserve evidence that may be on the device including messages, stored data and/or images.

- (a) Officers should not attempt to access, review or search the contents of such devices prior to examination by a forensic expert. Unsent messages can be lost, data can be inadvertently deleted and incoming messages can override stored messages.
- (b) Do not turn the device on or off. The device should be placed in a solid metal container such as a paint can or in a faraday bag, to prevent the device from sending or receiving information from its host network.
- (c) When seizing the devices, also seize the charging units and keep them plugged in to the chargers until they can be examined. If the batteries go dead all the data may be lost.

### **814.5 DIGITAL EVIDENCE RECORDED BY OFFICERS**

Officers handling and submitting recorded and digitally stored evidence from digital cameras and audio or video recorders will comply with these procedures to ensure the integrity and admissibility of such evidence.

#### **814.5.1 COLLECTION OF DIGITAL EVIDENCE**

Once evidence is recorded it shall not be erased, deleted or altered in any way prior to submission. All photographs taken will be preserved regardless of quality, composition or relevance. Video and audio files will not be altered in any way.

#### **814.5.2 SUBMISSION OF DIGITAL MEDIA**

The following are required procedures for the submission of digital media used by cameras or other recorders:

- (a) The recording media (smart card, compact flash card or any other media) shall be brought to the Property and Evidence Section as soon as possible for submission into evidence.
- (b) Officers are not authorized to review or copy memory cards. The evidence technicians are the only employees authorized to copy and/or distribute digital media made from the memory cards.
- (c) As soon as possible following the collection of evidence, the camera operator is to remove the memory card from their digital camera and place the card into a plastic carrier. The card and carrier are then to be placed into a zip-lock type baggie. The camera operator shall write their name and the related case number on the outside of the baggie before placing in the film drop box along with the evidence form.
- (d) Evidence technicians will make a copy of the memory card using appropriate storage media. Once they have verified that the images properly transferred to the storage media, the



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technicians will erase the memory card for re-use. The storage media will be marked as the original.

- (e) Officers requiring a copy of the digital files must request a copy on the evidence form when submitted to evidence.

### 814.5.3 DOWNLOADING OF DIGITAL FILES

Digital information such as video or audio files recorded on devices using internal memory must be downloaded to storage media. The following procedures are to be followed:

- (a) Files should not be opened or reviewed prior to downloading and storage.
- (b) Where possible, the device should be connected to a computer and the files accessed directly from the computer directory or downloaded to a folder on the host computer for copying to the storage media.

### 814.5.4 PRESERVATION OF DIGITAL EVIDENCE

- (a) Only evidence technicians are authorized to copy original digital media that is held as evidence. The original digital media shall remain in evidence and shall remain unaltered.
- (b) Digital images that are enhanced to provide a better quality photograph for identification and investigative purposes must only be made from a copy of the original media.
- (c) If any enhancement is done to the copy of the original, it shall be noted in the corresponding incident report.

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## Animal Control Procedures

### 820.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for animal control officers and Palo Alto Police Department personnel in dealing with animal control related calls for service and to set forth procedures regarding animal control services, the handling of injured animals, and the abatement of animal nuisances.

### 820.2 ANIMAL CONTROL OFFICER RESPONSIBILITY

The Animal Control Officer (ACO) shall be responsible for enforcing local, state and federal laws relating to animals, and for appropriately resolving or referring animal problems as outlined in this policy. The ACO shall be under the operational control of the Investigative Services Division. The Animal Control Officer's assigned working hours will be scheduled by the Animal Control Services Superintendent. During hours when the ACO is on duty, requests for animal control services shall be assigned by the Communications Center.

Requests for assistance by the ACO shall be acknowledged and responded to promptly.

### 820.3 OFFICER RESPONSIBILITY

During hours when the Animal Control Officer is off-duty, or if the ACO is otherwise unavailable, the following animal related calls for service will be handled by the appropriate on-duty officer.

Officers may be dispatched to animal related calls and should take appropriate actions to control the situation until the arrival of an ACO. Due to the hazards of handling animals without proper equipment, responding officers generally should not attempt to capture and pick up any animal, but should keep the animal under observation until the arrival of the ACO. The following are examples of when an officer may consider acting before the arrival of the ACO:

- (a) When there is a threat to the public safety.
- (b) When animal has bitten someone, officers should take measures to confine the animal and prevent further injury.
- (c) When an animal is creating a traffic hazard.
- (d) When the owner/handler has been arrested and there is no other alternative placement for the animal.
- (e) When the animal is gravely injured.

#### 820.3.1 ANIMAL CRUELTY COMPLAINTS

Penal Code § 597 describes "Crimes Against Animals" to include: "(a) every person who maliciously and intentionally maims, mutilates, tortures, or wounds a living animal, or maliciously and intentionally kills and animal, is guilty of an offense punishable by imprisonment in the state prison, or by a fine of not more than twenty thousand dollars (\$20,000), or by both the fine and

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imprisonment" Penal Code §§ 597a,b,c,d and e relates specifically to "Fighting Animals", including "Aiders, Abettors: Spectators", "Training" and "Sufficient Food and Water".

Officers shall conduct a preliminary investigation on all reports of animal cruelty and forward the information to the ACO for follow-up. Officers shall not hesitate to take any immediate actions deemed necessary. The assistance of an animal control officer may be requested to assist with the investigation when appropriate for the purpose of handling the disposition of any animal(s) associated with the case.

Police shall investigate reported crimes against animals, and consult with Animal Services (ACO) for assistance in determining suspected violations. An ACO can be contacted through the Communications Center.

Photographs and specific descriptions of the animal(s) involved in such investigations are extremely important. Immediate medical care and assessment may be required, and should be referred to the City Veterinarian.

Animals found that are deceased, should be photographed and tagged for identification purposes. Deceased animals should be "housed" at Animal Services as evidence. The City Veterinarian will perform a necropsy upon request.

#### 820.3.2 STRAY DOGS

If the dog has a license or can otherwise be identified, the owner should be contacted, if possible. If the owner is contacted, the dog should be released to the owner and a citation may be issued if appropriate.

During regular business hours (8:00 A.M. 5:00 P.M.), Animal Control Officers (ACO) will respond to stray animals or dogs at large investigations.

During non business hours (5:00 P.M.-8:00 A.M), animals can be delivered to the police station and they will be held holding pens. An Animal Incident Reporting Form should be completed by the officer who picks up or accepts the animal at the station. It is important to note who found the animal, their address, the location where the animal was found, and a complete description of the animal. The employee who places the animal in the holding pen must ensure sure the animal has food, water, and bedding. The ACO will transport any animals in the holding pens to the Animal Shelter as soon as he/she comes on duty.

If a citizen chooses, they may also deliver the animal directly to Palo Alto Animal Services (PAAS) during regular business hours. If delivered at PAAS, normal intake procedure will be completed by Animal Services.

Once the animal arrives at PAAS, and impoundment is complete, every effort will be made to locate the animal owner.

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### 820.3.3 ANIMAL BITE REPORTS

Animal bites are those injuries inflicted by an animal regardless of the circumstances. There are two types of bites, one that breaks the skin and one that does not. Both require investigation. State law requires the quarantine of an animal when the bite results in the skin being broken on a human.

An Animal Control Officer (ACO) will investigate bite complaints during regular business hours. After hours (5:00 P.M. 8:00 A.M.), Police will investigate. Both the ACO and Police will complete an Animal Incident Report Form. The Case Number should be assigned by the Communications Center and indicated on the Form.

If the police respond and perform the initial investigation officers shall obtain as much information as possible for forwarding to the ACO for follow-up. Officers shall instruct the owner of a biting animal, if contacted, to keep the animal confined on the property until contacted by the ACO. If the animal is a stray, then every effort shall be made to capture and impound the animal immediately. All documentation and reports should be faxed to the Supervisor at Palo Alto Animal Services (PAAS) by the end of the calendar day that the bite occurred. Once the report has been received by PAAS, the Supervisor will assign the case to an ACO.

The ACO will make contact with the victim and animal's owner (if known). The ACO will determine if a quarantine is required and where the animals should be held. A quarantine period is ten (10) days, beginning on the date and time of the bite. The animal owner has the option of having the animal euthanized and tested by the Santa Clara County Health Department for rabies.

An ACO will complete the bite investigation after the quarantine is complete. Contact will be made with the animal owner and victim prior to releasing the animal from the quarantine, per the State law guidelines. All bite investigations that require a quarantine are possible "rabies" positive incidents.

Care should be taken when handling animals involved in a bite. Wash hands thoroughly with soap and water. Gloves should be used when handling deceased animals and their body should be placed in a plastic bag before transporting. Never allow anyone to freeze a deceased animal that has been involved in a bite incident. Refer to PAAS staff for appropriate storage.

If there are any questions regarding a bite investigation, the PAAS Supervisor, Superintendent, or City Veterinarian should be contacted through the Communications Center.

### 820.3.4 PUBLIC NUISANCE CALLS RELATING TO ANIMALS

Officers shall obtain and forward to the ACO as much information as possible regarding the nature of the complaint, complaining person, owner information (if possible), location of problem, etc. Officers will also document any actions taken, citation(s) issued, related report numbers, etc.

In the event responding officers cannot fulfill urgent requests for service because the animal is difficult or dangerous to handle, the ACO may be called to duty to handle. If the ACO is unavailable, the patrol supervisor may request the assistance of an animal control officer from an allied agency.

All requests to call in the ACO must be approved by a field supervisor or the Watch Commander.

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#### **820.3.5 BARKING DOGS**

Barking dog means a dog that barks, bays, cries, howls or makes any other noise continuously and incessantly for a period of ten minutes within a fifteen-minute period to the disturbance of any other person. Pursuant to Municipal Code § 6.20.140 "Barking dogs", "It is unlawful for any person to keep, maintain or permit in or upon any premises within the City any barking dog that is under the control of that person."

During the hours of 0800 to 1700, Monday-Sunday, these calls should be referred to the on-duty Animal Control Officer (ACO) through the Communications Center. If an ACO needs assistance during the investigation, they should request police back-up through the Communications Center.

During all other hours, calls should be referred to a police officer through the Communications Center. After investigating the complaint, if it meets the criteria for "Barking dog", the officer may issue an "Administrative Warning" (for the first offense) or an "Administrative Citation" (for subsequent offenses). The citing officer should hear the dog barking for a period of ten minutes within a fifteen-minute period to the disturbance of any other person.

If during the investigation it is found that the dog is in distress, an ACO should be asked to respond to the address and assist the police officer with further investigation. Off-hours the on-call ACO should be called through the Communications Center.

The ACO or police officer should fill out an Animal Incident Reporting Form and the Case Number should be assigned by Communications/Dispatch Center and indicated on the form. It is critical to have complete and accurate information on the form.

#### **820.3.6 LEASH LAW VIOLATIONS**

Leash law requirements include investigations based on response to citizen complaints or while performing regular patrol and seeing a dog off leash. Pursuant to Municipal Code § 6.16.100- Leash required, "No person owning or harboring any dog shall allow or permit such dog, whether licensed or not, to be upon a public street, sidewalk, park, school ground, public place or upon any unenclosed lot or land except when held under leash by an able-bodied person."

During the hours of 0800 to 1700, Monday-Sunday, these calls should be referred to the on-duty ACO through the Communications Center. Requirements for dogs being on leash are also enforced by ACOs or police officers while doing regular patrol within the City.

The first leash law violation may result in either a verbal or Administrative warning. All subsequent leash law violations may result in an Administrative citation being issued.

The ACO or police officer should fill out an Animal Incident Reporting Form, and the Case Number should be issued by the Communications Center and indicated on the form. It is critical to have complete and accurate information on the form.

#### **820.4 DECEASED ANIMALS**

Deceased animals on public property will be removed and properly disposed of by the ACO. The deceased animals may be placed in the dead pan of the Animal Control Officer's truck.

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- (a) For health and sanitary reasons, deceased animals should be placed in a sealed plastic bag prior to placing in the ACO truck. Large animals should be double bagged and left next to the ACO truck, out of public view.
- (b) Neither the ACO nor any officer will be required to climb onto or under any privately owned structure for the purpose of removing a deceased animal.

#### **820.5 INJURED ANIMALS**

When any injured domesticated animal is brought to the attention of a member of this agency, all reasonable attempts shall be made to contact the owner or responsible handler. When the owner or responsible handler cannot be located and the animal is not an immediate danger to the community, it shall be taken to a doctor of veterinary medicine as described below (Penal Code 597.1 (b)).

- (a) During regular business hours, the City Veterinarian will determine whether the animal should be humanely destroyed or given proper care and emergency treatment.
- (b) If after normal business hours, the animal should be taken to the authorized Veterinary Emergency and Critical Care Services Clinic known by the Agency for assessment and treatment.
- (c) The City Veterinarian should be notified when animals are taken to a local veterinarian in an emergency situation (The Communications Center can make contact after hours).
- (d) This is a priority call for ACO's and they will respond 24-hours, 7-days a week. An Animal Incident Form should be completed by an ACO or a police officer. It is very important to document where the animal was found and an accurate description of the animals and its injuries or illness. An Incident Number should be provided by the Communications Center. Palo Alto Animal Services (PAAS) will use the information to try and locate the animal's owner so that it may be reunited as quickly as possible.
- (e) The City Veterinarian will continue treatment once the animal is transported to PAAS for housing and care in the event that the owner is not known, or we are unable to make contact the owner.
- (f) When handling dead or injured animals department employees shall attempt to identify and notify the owner of the final disposition of the animal.
- (g) The only exception to the above is when the animal is an immediate danger to the community or the owner of the animal is identified and takes responsibility for the injured animal.
  - 1. When the need to kill a seriously injured or dangerous animal is necessary, the department Use of Force Policy 304 shall be followed. The decision to dispose of a seriously injured animal will rest with the on-duty Watch Commander.

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- (h) Injured wildlife should be referred to the SPCA, Marine Mammal Center or Department of Fish and Game as applicable. The SPCA will not pick up common pigeons (red legs), starlings, bats or skunks.

820.5.1 PERMITTING ANIMAL TO GO WITHOUT ADEQUATE CARE: SEIZURE HEARINGS  
Police shall investigate reported complaints of animals not being provided adequate care, and should consult with Animals Services for assistance in determining the validity of the complaint. Those complaints relating to inadequate veterinary care should be referred to the City Veterinarian for assessment.

If after investigation an officer has reasonable grounds to feel that prompt action is required to protect the health or safety of the animal, or the health and safety of others, the officer shall immediately seize the animal and comply the following:

- (a) Penal Code § 597.1(f) states "Whenever an officer authorized under this section seizes or impounds an animal based on a reasonable belief that prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer shall, prior to the commencement of any criminal proceedings authorized by this section, provide the owner or keeper of the animal, if known or ascertainable after reasonable investigation, with the opportunity for a post-seizure hearing to determine the validity of the seizure or impoundment, or both.
- (b) The agency shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice of the seizure or impoundment, or both, to the owner or keeper within 48 hours, excluding weekends and holidays.
- (c) A statement that, in order to receive a post-seizure hearing, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning an enclosed declaration of ownership or right to keep the animal to the agency providing the notice with 10 days, including weekends and holidays, of the date of the notice. The declaration may be returned by personal delivery or mail.
- (d) A statement that the cost of caring for and treating any animal properly seized under this section is a lien on the animal and that the animal shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in liability for this cost.
- (e) The post-seizure hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The seizing agency may authorize its own officer or employee to conduct the hearing, if the hearing officer is not the same person who directed the seizure or impoundment of the animal and is not junior in rank to that person. The agency may utilize the services of a hearing officer from outside the agency for the purposes of complying with this section.
- (f) Where the need for immediate seizure is not present and prior to the commencement of any criminal proceedings authorized by this section, the agency shall provide the owner

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or keeper of the animal, if known or ascertainable after reasonable investigation, with the opportunity for a hearing prior to any seizure of impoundment of the animal."

If an animal is seized and impounded after determining that it is in need of protection or veterinary care, the ACO will transport it to the Animal Shelter or veterinarian. All animals seized or impounded are identified by a specific "animal number" and monitored through the Animal Services database.

#### **820.6 CITATIONS**

It should be at the discretion of the handling officer or the Field Supervisor as to the need for, or advisability of, the issuance of a citation for a violation.

#### **820.7 POST-ARREST PROCEDURES**

The arresting officer should make a reasonable effort to ensure that animals or pets under a person's care will be provided with adequate care when that person is arrested. This is only required when there is no person to provide care and the arrestee is expected to be in custody for a time period longer than would reasonably allow him/her to properly care for the animals.

Relatives or neighbors may be contacted, with the owner's consent, to care for the animals. If no persons can be found or the owner does not consent an Animal Control Officer (ACO) will respond to take animals into custody. The police officer should fill out an Animal Incident Reporting Form and the case number should be assigned by the Communications Center and indicated on the form.

Because of the difficulty in reaching the animal owner once he/she has been incarcerated or hospitalized, it is extremely important to find out if there is someone who can care for the animal(s) while the owner is away. Written instructions or phone numbers and names of alternate caretakers from the owner are very helpful. Complete animal information is helpful, i.e., special diets, medications, etc.

If the owner is hospitalized the name of the facility shall be noted in the report.

In all situations, the animal owner should be informed where the animal(s) are being taken and that there are fees associated with the impoundment.

#### **820.8 AGGRESSIVE OR DANGEROUS ANIMALS**

##### **820.8.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide guidelines and procedures for responding to aggressive/vicious behavior by domestic animals to both humans and other animals. This type of reported behavior is a priority call for Animal Control Officers (ACO's) and Police.

##### **820.8.2 DEFINITION**

Animals who display aggressive or vicious behavior may be referred to as a "Dangerous Animal". Dependent on the circumstances of the incident, it may include dogs chasing or harassing



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livestock. Dangerous Animal means any dog or other animal, which demonstrates a propensity to assault, bite, scratch or harass people or other animals without provocation.

There shall be a rebuttable presumption that any animal that bites a person is a dangerous animal.

#### **820.8.3 PROCEDURE**

Pursuant to Municipal Code § 6.28, all calls relating to aggressive/vicious behavior are to be considered priority calls.

Animal Control Officers (ACO's) will respond to aggressive calls 24-hours per day 7-days per week. After 5:00 P.M., the on-call ACO will respond to these calls through the Communications Center.

Police may be the first responder on these incidents and they should request an ACO through the Communications Center.

If an ACO needs assistance during the investigation, they should request Police back-up through the Communications Center.

The Animal Incident Reporting Form should be used to document "Aggressive/Vicious Behavior" investigations. Either the ACO or police officer should complete the form. The Case Number should be assigned by the Communications Center and indicated on the form. It is critical to have complete and accurate information on the form. The Description of the biting/aggressive animal is extremely important as well as licensing and/or rabies vaccination documentation. If a bite has occurred to a human, the "Bite and Quarantine Procedures" are in a separate section.

If after investigating the circumstances of the aggressive/vicious behavior, it is found that an impound of the animal is required, a hearing regarding designation of "Dangerous Animal" will be held within ten (10) calendar days of the contact with the animal owner. Because of the restrictive time-line all reports are required in writing to PAAS Supervisor by the calendar day following the incident.

Any injuries to other animals need to be documented.

Photos by the Police or ACO are necessary regardless of whether it is involving a human or another animal. All photos should be handled as evidence.

If the aggressive/vicious behavior results in the death of another animal, the City Veterinarian can perform a necropsy. The City Veterinarian should be contacted immediately so that appropriate handling of the body can be provided to the officer on scene.

If at anytime there is need for clarification, contact either the PAAS Supervisor, Superintendent. For questions about medical issues, contact the City Veterinarian.

#### **820.9 MOUNTAIN LIONS**

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#### 820.9.1 PURPOSE AND SCOPE

Because the City of Palo Alto is situated near undeveloped open space, officers may, on occasion, be called upon to handle situations dealing with mountain lions. This unique call for service may be in the form of answering general questions regarding mountain lions, or in response to an emergency, which will require an officer to take the appropriate action for the protection of life and property. All officers shall familiarize themselves with this policy and adhere to the following guidelines.

#### 820.9.2 POLICY

The Police Department and the Palo Alto Open Space Division are responsible for managing the presence of mountain lions within the City Limits. An expedient resolution to the presence of a mountain lion within a residential area may mitigate a potentially dangerous situation and thereby safeguard citizens and police personnel. The ultimate responsibility for public safety rests with the Police Department.

The California Fish and Game Code §4800 states that a mountain lion is a specially protected mammal under the laws of the state. It is unlawful to take, injure, possess, transport, import, or sell any mountain lion unless it can be demonstrated that the taking or injuring of the mountain lion was in self-defense or in the defense of others. A member of the Department may remove or take any mountain lion that is perceived to be an imminent threat to public health or safety. The mere presence of a mountain lion in an area frequented by humans does not make the mountain lion an "immediate threat" according to this policy.

#### 820.9.3 PROCEDURE

The following are guidelines for Police Department personnel on managing and dealing with mountain lions found within the City of Palo Alto

- (a) Evaluate the threat and provide for public safety considerations that includes:
1. Monitoring the actions of the animal;
  2. Location of the animal;
  3. The time of day of the incident;
  4. Pedestrian traffic in the area;
  5. Schools and children in the area;
  6. The ability to safely and effectively evacuate/lock-down facilities;
  7. Secure the area of the incident/encounter;
  8. Notify the Supervisor, Watch Commander and the FSD Captain;
  9. Notify the City's Open Space Division, Department of Fish and Game; and County Vector Control;
  10. Notify residents/businesses and school officials of the potential danger.

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### 820.9.4 SIGHTINGS

It is recognized that the City of Palo Alto borders undeveloped areas where many species of wildlife exist. The mere sighting of a mountain lion is not necessarily a cause for concern or management action. Exceptions to this would be instances where the lion appears to be sick or injured, is in a residential neighborhood, or where the lion displays some abnormal behavior or condition.

When a sighting occurs in designated wildlife areas such as the foothills or creek corridors, Palo Alto Communications will notify the on-call Open Space Naturalist. The Naturalist will document the sighting on an Animal Incident and Observation Form.

If the sighting occurs on the east side of Junipero Serra Boulevard, the Naturalist will ask Communications to notify the on-duty Watch Commander via the computer with limited information being broadcasted over the Police radio. The Watch Commander will make a determination as to whether or not the animal is a threat to public safety based on the actions of the animal and the location of the incident.

If the Open Space Naturalist determines that the sighting is a recurring event, they will provide educational material on the respective wildlife to the public. They will also notify the Department of Fish and Game, County Vector Control and the appropriate adjacent agencies of the recurring mountain lion sightings.

### 820.9.5 ENCOUNTERS OR INCIDENTS

An encounter is an unexpected meeting between a human and a mountain lion. When an encounter occurs, Palo Alto Police Communications will immediately notify the Palo Alto Open Space Division and the Watch Commander.

During an encounter, animals will either display acceptable or unacceptable behavior.

### 820.9.6 ACCEPTABLE BEHAVIOR

Acceptable behavior can be defined as any wildlife-human interaction where there is no unprovoked aggression from the animal toward the human. No immediate threats to humans exist. The lion is in, or is in close proximity to, uninhabited areas or regularly traveled corridors. All indications are that the lion will return to the wilderness area and will not compromise public safety.

#### (a) ACCEPTABLE BEHAVIOR INCLUDES:

1. A lion that retreats at the sight of humans;
2. A lion that takes an aggressive posture followed by retreating or no further aggression;
3. A lion that stays put while humans show no aggression;
4. A lion that shows signs of curiosity while humans show no aggression.

#### (b) ACCEPTABLE BEHAVIOR INVESTIGATION

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1. The Palo Alto Police Department and Open Space Division will investigate the incident, obtain witness information, document the incident and evaluate any patterns. They will notify the Department of Fish & Game, if appropriate;
2. Close and secure the area until it can be safely re-opened;
3. Notify residents/businesses and school officials of the potential danger;
4. The Open Space Division will provide educational material on the respective wildlife to the public.

#### 820.9.7 UNACCEPTABLE BEHAVIOR

Unacceptable behavior is when a lion displays unprovoked aggression, repetitive acts of nuisance, or unacceptable levels of damage to personal property, including domesticated animals. or when athreat to human life has occurred or is imminent and the lion's immediate departure to an uninhabited area is unlikely without further human contact and therefore is a threat to public safety.

##### (a) UNACCEPTABLE BEHAVIOR INCLUDES

1. A lion that displays unacceptable aggression;
2. A lion that exhibits forms of predatory behavior towards humans;
3. A lion that continues to disturb, raid, or investigate humans or areas of high usage;
4. A lion that displays a lack of fear of humans by aggressively approaching, or failing to retreat, when humans take aggressive actions;
5. A lion that stalks humans.

##### (b) UNACCEPTABLE BEHAVIOR INVESTIGATION

1. Palo Alto Police Communications will immediately notify the Watch Commander and the City's Open Space Division via the computer with limited information broadcasted on the Police radio;
2. The Watch Commander will establish a command post to monitor the incident. Once again, Officers should constantly monitor the threat to public safety by evaluating the actions of the animal, location, time of day, the amount of pedestrians/traffic in the area as well as the ability to effectively evacuate and make notifications in a safe manner;
3. Establish a perimeter and deploy personnel to control the mobility of the animal;
4. Notify residents, businesses and schools in the area using the Alert SCC System and other approved systems;
5. Consider evacuations/lock-downs of public facilities including schools;
6. Consider air support to track the animal;
7. Notify County Vector Control and the Department of Fish and Game;

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8. Assign a PIO and make press notifications and public service announcements;
9. Distribute fliers and educational materials if the animal is not contained.

The Palo Alto Police Department should attempt to dispatch a mountain lion when it can be reasonably determined that the lion has been involved in an unprovoked aggression toward a human and/or is a threat to public safety. Ensuring a safe a proper backdrop is essential prior to attempting to destroy the animal by using a firearm. All attempts must be made to insure that the fired round does not inadvertently cause injury or unnecessary damage, should it pass through the animal or the target is missed. Favorable backdrops to consider include large trees or the ground.

#### 820.9.8 ATTACK

In the event of a mountain lion attack on a human, Palo Alto Police Communications will immediately notify the Watch Commander, the City's Open Space Division and dispatch units to the scene.

Officers will treat the attack as a critical incident and activate the SEMS System. The Police Department will:

- (a) Attend to the medical needs of the victim;
- (b) Secure the area;
- (c) Notify the Department of Fish and Game and County Vector Control. The Fish and Game will send their Evidence Team Technicians to assist with processing the scene;
- (d) Coordinate with the Fish and Game for the proper disposition of the animal;
- (e) Work with the Fish and Game to collect evidence and process the scene.

#### 820.9.9 RESOURCES AND CONTACTS

- Department of Fish and Game Monterey Dispatch 831-649-2810 Non-public number 831-649-2817
- Santa Clara County Vector Control Noor Tietze (408) 918-3482 or (408) 210-5773 (cell)
- Palo Alto Open Space Naturalist 650-329-2382 (Cellular) 650-400-1960
- Air Support San Jose PD 408-277-8990 CHP 707-551-4200
- East Bay Regional Parks 510-537-2286

## Chapter 9 - Custody

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## Temporary Holding Facility

### 900.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines and procedures for the booking, holding, security and release of prisoners at the Palo Alto Police Department's Temporary Holding Facility.

In addition to this policy, the Palo Alto Police Department shall maintain the Operations and Procedures Manual to guide the operation of the Temporary Holding Facility.

The Department shall maintain the custody of prisoners in accordance with this policy, the Operations and Procedures Manual and in accordance with applicable law.

#### 900.1.1 SUPERVISION OF PRISONERS

The welfare of arrestee's held in the Temporary Holding Facility is the responsibility of the officer processing the arrestee. An officer shall remain with, and supervise, the arrestee at all times. At least two officers will remain with the arrestee while inside the processing area. Under no circumstances will the person be detained in the Temporary Holding Facility longer than eight hours.

#### 900.1.2 DETENTION OF PRISONERS IN THE TEMPORARY HOLDING FACILITY

It is the policy of the Palo Alto Police Department that prisoners detained in the Temporary Holding Facility shall be released or transported to another facility, per the provisions of this manual, as soon as possible and practical.

#### 900.1.3 NON-DETAINABLE PRISONERS

Arrestees who fall within the following classifications should not be detained in the Temporary Holding Facility. They should be transported to the county jail, the designated medical facility or the county mental health facility, as appropriate:

- (a) Any person who is sick, injured or who has any other medical condition, including pregnant females, who may require medical attention, supervision or medication during confinement.
- (b) Any person who has claimed, or is known to be afflicted with or displays symptoms of any communicable disease.
- (c) Any person suffering from a severe mental disorder.
- (d) Any combative or unruly person who is likely to cause damage to the facility or severely disrupt the good order of the Temporary Holding Facility (15 CCR § 1053).
- (e) A prisoner who is or may be contemplating suicide.
- (f) Any person suspected of being under the influence of a hallucinogen, hyperglycemic agent, psychotropic medication, narcotic, sedative, tranquilizer, anti-neoplastic (cancer) drug, research medication or any person suffering from withdrawals of the above.
- (g) Any person suspected or confirmed to be developmentally disabled (15 CCR § 1057).

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- (h) Any person or persons for whom appropriate classification (by gender, age) cannot be maintained.
- (i) Any person who is so intoxicated as to be a danger to him/herself or others and cannot be safely accommodated within the facility or a sobering cell (15 CCR § 1056). This shall also apply to those inmates who are undergoing withdrawal reactions (15 CCR § 1213).

#### 900.1.4 DETAINABLE PRISONERS

Arrestees who fall within the following classifications may be detained in the Palo Alto Police Department Temporary Holding Facility with the approval of the Watch Commander. This includes those arrested and detained pending:

- (a) Posting of bail
- (b) Release on Own Recognizance (O.R.)
- (c) Release on citation in accordance with the Cite and Release Policy in this manual
- (d) Transportation to the County Jail
- (e) Release per Penal Code § 849(b)
- (f) In-custody interview or other investigation

#### 900.1.5 USE OF SOBERING CELL

Any person arrested for violation of Penal Code § 647(f), public intoxication; or Vehicle Code §§ 23152 or 23153, driving while intoxicated, held in the Temporary Holding Facility over six hours must be evaluated by a supervisor.

#### 900.1.6 TRANSPORTATION OF PRISONERS

Generally and when circumstances permit, prisoners of the opposite sex, or adult and juvenile prisoners, should not be transported in the same vehicle unless they are physically separated by a solid barrier. If segregating prisoners is not practicable, officers should be alert to inappropriate physical or verbal contact between them and take appropriate action as necessary.

Whenever a prisoner is to be transported from the Temporary Holding Facility to another facility by a member of this department the transporting officer shall be responsible for the following:

- (a) Verify that the identity of each prisoner to be transported matches the booking paperwork.
- (b) Ensure that all pertinent documentation accompanies the prisoner, such as copies of booking forms, medical records when appropriate, an itemized list of the prisoner's property, warrant copies, etc.
- (c) Ensure that any known threat or danger the prisoner may pose, such as escape risk, suicide potential, or medical condition, is recorded on the prisoner's booking documentation and is transported with the prisoner to the next facility. The transporting officer shall ensure such threat or danger is communicated to intake personnel at the facility.



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### 900.1.7 PRISONER WITH ORTHOPEDIC OR PROSTHETIC APPLIANCE

Subject to safety and security concerns, persons who are detained in the Temporary Holding Facility shall be permitted to retain possession of an orthopedic or prosthetic appliance if it is prescribed or recommended and fitted by a physician. However, if the appliance presents a risk of bodily harm to any person or is a risk to the security of the facility, the appliance shall be removed from the prisoner and booked for safekeeping but shall be promptly returned if it is later determined that such risk no longer exists (Penal Code § 2656 (a) and (b)).

Whenever a prosthetic or orthopedic appliance is removed from a prisoner the Watch Commander shall be promptly apprised of the reason for the removal. If it is determined that the appliance will not be returned, the prisoner shall be examined as soon as practicable by a physician but no later than 24 hours of removal to determine if the removal will be injurious to the health or safety of the prisoner (Penal Code § 2656 (b)).

If the examining physician determines that removal is or will be injurious to the health or safety of the prisoner and the appliance cannot be returned because of safety or security concerns the prisoner should be transferred to an appropriate medical detention facility or, in lieu of transfer, shall be provided with an opportunity to petition the Superior Court for the return of the appliance in accordance with Penal Code § 2656(b) and (c).

## **900.2 PRISONER SUPERVISION AND CLASSIFICATION**

### 900.2.1 SUPERVISION OF PRISONERS

All prisoners, with the exception of intoxicated prisoners, should be visually checked no less than once every hour. Intoxicated persons should be checked at least once every half-hour. This check will be conducted through direct visual observation without the aid of surveillance cameras.

The Temporary Holding Facility is equipped with a panic button for use by personnel in case of an emergency. The Temporary Holding Facility is constantly monitored in Communications via video camera. There is also a separate monitoring station in the Field Services Division report writing room.

### 900.2.2 PRISONER CLASSIFICATION, SCREENING AND SEGREGATION

It is the policy of the Palo Alto Police Department Temporary Holding Facility to segregate prisoners in compliance with the requirements noted in Title 15 of the California Code of Regulations.

- (a) It is necessary to establish a prisoner classification procedure wherein each prisoner will be evaluated, prior to housing, according to categories of sex, age, criminal sophistication, seriousness of crime charged, assaultive/non-assaultive behavior, medical problems, mental state (including developmental disabilities) and sexual orientation, and housed in order to provide for the safety of prisoners and staff (15 CCR § 1050).
- (b) As part of the booking procedure, the booking officer should evaluate each incoming prisoner using the Prisoner Classification and Screening Form. This form shall be completed in its entirety in order to properly assign prisoners according to sex, age, criminal sophistication,

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- seriousness of crime charged, physical or mental health needs, assaultive/non-assaultive behavior, restrictions, cell assignments and other criteria to ensure the safety of the prisoner and staff.
- (c) During the booking procedure, the booking officer shall ask the prisoner if he/she is contemplating suicide. The officer shall evaluate the prisoner for other signs or indications that the prisoner may be suicidal. If there is any suspicion that the prisoner may be suicidal, he/she shall be transported to the county jail or appropriate mental health facility. The receiving staff shall be notified in writing (e.g., noted on the booking sheet, 5150 form, etc.) that the suspect may be suicidal.
  - (d) It is the responsibility of the arresting officer's supervisor to ensure that the Prisoner Classification and Screening Form has been properly completed. After the completion of the form, the arresting officer's supervisor will be required to authorize, on a case-by-case basis, the placement of each prisoner in the Temporary Holding Facility who is not immediately released or transported to the county jail.
    - 1. The prisoner will then be housed or transported.
    - 2. The completed classification form will be attached to the arrest report, booking forms and fingerprints as applicable.
    - 3. The prisoner classification form should be retained in the prisoner's arrest file
  - (e) Before placing any prisoner into a temporary holding cell with any other prisoner, members shall consider whether the prisoner may be at a high risk of being sexually abused based on all available known information (28 CFR 115.141).
  - (f) If a prisoner will be housed overnight in the same cell with any other prisoner, he/she shall be screened to assess his/her risk of being sexually abused by other prisoners or of being sexually abusive toward other prisoners. Members shall ask the prisoner about his/her own perception of vulnerability and shall consider the following criteria to screen prisoners for risk of sexual victimization, including (28 CFR 115.141):
    - 1. Whether the prisoner has a known or apparent mental, physical or developmental disability.
    - 2. The age of the prisoner.
    - 3. The physical build and appearance of the prisoner.
    - 4. Whether the prisoner has previously been incarcerated.
    - 5. The nature of the prisoner's alleged offense and criminal history.
  - (g) Any prisoner identified as being at a high risk for sexual victimization shall be provided with heightened protection. This may include continuous, direct sight and sound supervision, single-cell housing or placement in a cell that is actively monitored on video by a staff

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member who is available to immediately intervene, unless no such option is reasonably feasible (28 CFR 115.113; 28 CFR 115.141).

#### **900.2.3 TEMPORARY DETENTION OF JUVENILES**

When a member of this department takes a juvenile into custody, that juvenile must be handled in a different manner than adults. Policy Manual § 324 is incorporated as a part of this manual and should be consulted regarding the policies and procedures for the temporary custody of juveniles.

All juvenile detentions will be logged per the provisions of Policy Manual § 324.

#### **900.2.4 HANDCUFFING OF PREGNANT ARRESTEES**

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 persons known to be pregnant or in recovery following delivery be restrained by the use of leg irons or waist chains.

No arrestee who is in labor, delivery or recovery after delivery shall be otherwise 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 § 6030).

#### **900.2.5 REPORTING PHYSICAL HARM OR SERIOUS THREAT OF PHYSICAL HARM**

Any Temporary Holding Facility incident that results in physical harm or serious threat of physical harm to an employee, inmate or other person shall be documented per the Use of Force Policy, On-Duty Injuries Policy or other applicable reporting process. A copy of all reports generated regarding the above circumstances shall be submitted to the Personnel & Training Coordinator as soon as reasonably practicable. The Personnel & Training Division will retain a record of these reports for inspection purposes (15 CCR § 1044).

#### **900.3 TEMPORARY HOLDING FACILITY SEARCHES**

Immediately upon securing weapons, officers bringing prisoners into the Temporary Holding Facility shall thoroughly search their prisoners. All arrestees brought into the Temporary Holding Facility must be searched by an officer or other authorized employee of the same gender whenever possible. When a prisoner has been handcuffed, the prisoner should remain handcuffed until the search is substantially completed.

In the case of female prisoners, all searches will be conducted by a female officer or designated female employee whenever possible, and male employees shall remain available to assist immediately if needed. Should a female prisoner become combative, an officer may be assigned to restrain her until the appropriate search is completed.

Arrestee search procedures and policies are found in Policy Manual § 902.

#### **900.4 FIRE SAFETY**

The Watch Commander, who has responsibility for the processing area, should, inspect the Temporary Holding Facility to ensure:

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- (a) No flammable materials are stored in the detention area
- (b) Fire extinguishers are serviceable
- (c) First aid kits are readily available and completely stocked
- (d) Smoke detectors are operational

### 900.4.1 FIRE PROCEDURES

- (a) In the event of a fire in the detention area the discovering employee should immediately:
  - 1. Notify the Fire Department, Watch Commander and on-duty patrol personnel simultaneously through the Communications Center
  - 2. Initiate movement of all prisoners to an area of safety through the utilization of the evacuation plan.
  - 3. Begin fire suppression procedures as applicable.
- (b) Responding patrol officers should be responsible for:
  - 1. The evacuation of prisoners.
  - 2. Obtaining medical services as needed.
  - 3. Securing prisoners in a temporary holding area.
  - 4. Arranging transportation of prisoners to the County Jail or other Temporary Holding Facility as necessary

### **900.5 EVACUATION OF TEMPORARY HOLDING FACILITY**

If an evacuation of the Temporary Holding Facility becomes necessary, the following should be considered:

#### 900.5.1 PRIMARY CONCERNS

- (a) Safety of public
- (b) Safety of department personnel
- (c) Safety of prisoners
- (d) Security of prisoners

#### 900.5.2 NOTIFICATION

- (a) Watch Commander
- (b) All available sworn personnel
- (c) Fire Department
- (d) Medical aid

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#### 900.5.3 EMERGENCY EVACUATION

When time permits, all prisoners will be restrained, as deemed necessary by the officer conducting the evacuation. The evacuation will be conducted in an orderly fashion by one of the routes posted in the Temporary Holding Facility.

#### 900.5.4 EVACUATION FORMATION AREA

All prisoners will form in the designated location where they will be held until the Temporary Holding Facility can again be safely occupied, or as in the case of an emergency of a long duration until they can be transported to another facility.

If possible, juveniles are to be kept separate from adult prisoners, and females from male prisoners.

Only after the safety and security of the prisoners is assured will personnel, not detailed to prisoner security, participate in fire suppression or other emergency activities.

#### 900.5.5 CITYWIDE OR REGIONAL DISASTERS

In cases of Citywide or regional disasters, the Watch Commander may authorize the release of prisoners detained for misdemeanors or felonies involving property crimes only. Every available effort will be made to continue the custody of violent felons or felons accused of violent crimes to ensure the safety of the public.

#### 900.5.6 FIRST-AID/PROFESSIONAL MEDICAL ATTENTION

As necessary, evacuating personnel will apply first-aid techniques to those prisoners injured as a result of the emergency or injured during the evacuation procedure until professional medical aid arrives to assist.

#### 900.5.7 REPORTS

The Watch Commander will ensure that any emergency evacuation of the Temporary Holding Facility is documented and that copies of those reports be forwarded to the appropriate Division Captain.

### **900.6 PRISONER TELEPHONE CALLS**

Every prisoner, whether adult or juvenile, detained in the Temporary Holding Facility shall be entitled to at least three completed telephone calls immediately upon being booked and no later than three hours after arrest. Either the arresting officer or the booking officer must ask the arrested person if he/she is a custodial parent with responsibility for a minor child as soon as practicable but no later than three hours after the arrest, except where this may be physically impossible. If the person is a custodial parent with responsibility for a minor child, the person shall be entitled to make two additional telephone calls for the purpose of arranging care for the minor child (Penal Code § 851.5).

There is no obligation for the officer to make a call on a prisoner's behalf - for example in the case of a person that is so intoxicated that he or she cannot make a call. An officer is not required to wake an intoxicated person three hours after booking so that they may complete a call.

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There is also no limitation on the amount of time a prisoner's phone call must last. A prisoner should be given sufficient time on the phone to contact whomever he/she desires and to arrange for necessary items because of his/her arrest. The phone calls are not intended to be lengthy conversations and the officer may use his or judgment in determining the duration of the calls.

#### 900.6.1 TELEPHONE CALL PROCEDURES

The Department will pay the cost of local calls. Long distance calls must be paid by the prisoners using calling cards or by calling collect.

Calls between the prisoner and his/her attorney shall be deemed confidential and shall not be monitored, eavesdropped upon or recorded.

The provisions of Penal Code § 851.5 shall be posted in bold block type in a conspicuous place within the Temporary Holding Facility.

#### **900.7 HANDLING OF PRISONER'S PROPERTY**

Officers shall take care in the handling of a prisoner's property to avoid discrepancies or losses.

Any personal property belonging to the prisoner but retained by the officer for safekeeping, shall be kept in a secure location until the prisoner is released or transferred. Smaller items such as a driver's license, pocketknife, wallet, prescription medications and other similar property, shall be placed in a property bag, and sealed. A list of the property, including detailed descriptions of prescription medications, shall be included on the booking form. Any property too large to be kept in the Temporary Holding Facility shall be booked into property for safekeeping. Prisoner property that is too large or will not otherwise be accepted by a receiving facility in the event of an inmate transfer should be booked for safekeeping.

Property belonging to the prisoner, but retained by the officer as evidence, shall be booked according to procedures. The prisoner shall be advised that such property will be kept as evidence and where demanded, the officer will issue the prisoner a receipt. Such receipt may be a copy of the property booking form, written out in the officer's handwriting or typed for his/her personal signature. It should include the description of the property (but not its value), the case number, date, time, officer's badge number and signature. Where a receipt is issued, it should be mentioned in the arrest report.

#### 900.7.1 VERIFICATION OF PRISONER'S MONEY

All money belonging to the prisoner and retained by the officer shall be counted in front of the prisoner. When possible, the prisoner should initial the dollar amount on the booking sheet.

#### **900.8 TEMPORARY HOLDING FACILITY PROCEDURES**

##### 900.8.1 SECURITY

- (a) Firearms, deadly weapons or any type of explosive device shall not be permitted within the secure area of the Temporary Holding Facility. Weapons should be properly secured in the

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gun lockers outside of the secure area of the Temporary Holding Facility. An exception may occur only during emergencies upon approval of the Watch Commander.

- (b) All perimeter doors to the Temporary Holding Facility shall be kept locked at all times except during routine cleaning when no prisoners are present, or in the event of an emergency, such as an evacuation.
- (c) Cell doors are to be locked at all times when prisoners are detained in the facility.
- (d) No personnel shall smoke at any time while in the detention area. No prisoner shall be allowed to smoke or possess smoking materials in the detention area.
- (e) Restraint devices such as handcuffs, disposable cuffs, belly-chains and leg restraints shall be used in accordance with department policy and only with the approval of the Watch Commander.

#### 900.8.2 PRISONER FOOD SERVICE

- (a) Meals will be provided for prisoners detained in excess of six hours.

#### 900.8.3 ATTORNEYS AND BAIL BONDSMEN

- (a) An attorney may visit the prisoner at the prisoner's request or a relative of the prisoner (Penal Code § 825).
- (b) Attorneys who need to interview a prisoner should do so inside the Temporary Holding Facility in the secure interview room.
- (c) Both the attorney and the prisoner should be searched for weapons prior and after being admitted to the Temporary Holding Facility interview room.
- (d) Attorneys must produce a current California Bar card as well as other matching appropriate identification.
- (e) Interviews between attorneys and their clients shall not be monitored or recorded.

#### 900.8.4 FACILITY SANITATION AND MAINTENANCE

The Temporary Holding Facility shall be cleaned, as necessary, in order to provide a proper custodial and working environment. Any maintenance problems will be reported to the Watch Commander.

#### 900.8.5 DEATH OF A PRISONER

In the event of a fatal injury or death of a prisoner while in custody of the Temporary Holding Facility, in addition to a standard criminal investigation, the Chief of Police or the authorized designee shall report in writing to the Attorney General within 10 days after the death, all facts in the possession of the department concerning the death. In all such cases, the Watch Commander shall be notified and will make the appropriate additional notifications as directed in the Temporary Holding Facility manual.

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A medical and operational review of every in-custody death shall be conducted. The review team shall include the following:

- Chief of Police or the authorized designee
- The health administrator
- The responsible physician and other health care and supervision staff who are relevant to the incident (15 CCR § 1046)

### 900.8.6 ACCESS TO FAITH AND MORALS BASED PROGRAMS

Consistent with available resources, safety and security, the religious beliefs and needs of all prisoners should be reasonably accommodated, including reasonable access to clergy members and spiritual advisers, volunteer religious organizations, faith and morals based programs, and other secular volunteer programs. No prisoner shall be required to participate in any such program.

### 900.8.7 PRISONER DISCIPLINE

Prisoner discipline will not be administered in this facility. Any prisoner who repeatedly fails to follow directions or facility rules should be transported to the appropriate jail, mental health facility or hospital as soon as practicable. Such conduct should be documented and reported to the receiving facility (15 CCR § 1081).



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## Custody Searches

### 902.1 PURPOSE AND SCOPE

This policy provides guidance regarding searches of individuals in custody. Such searches are necessary to eliminate the introduction of contraband, intoxicants or weapons into the Palo Alto Police Department facility. Such items can pose a serious risk to the safety and security of department members, individuals in custody, contractors and the public.

Nothing in this policy is intended to prohibit the otherwise lawful collection of trace evidence from an individual in custody.

#### 902.1.1 DEFINITIONS

Definitions related to this policy include:

**Custody search** - An in-custody search of an individual and of his/her property, shoes and clothing, including pockets, cuffs and folds on the clothing, to remove all weapons, dangerous items and contraband.

**Physical body cavity search** - A search that includes a visual inspection and may include a physical intrusion into a body cavity. Body cavity means the stomach or rectal cavity of an individual, and the vagina of a female person.

**Strip search** - A search that requires an individual to remove or rearrange some or all of his/her clothing to permit a visual inspection of the underclothing, breasts, buttocks, anus or outer genitalia. This includes monitoring an individual who is changing clothes, where his/her underclothing, buttocks, genitalia or female breasts are visible.

### 902.2 POLICY

All searches shall be conducted with concern for safety, dignity, courtesy, respect for privacy and hygiene, and in compliance with policy and law to protect the rights of those who are subject to any search.

Searches shall not be used for intimidation, harassment, punishment or retaliation.

### 902.3 FIELD AND TRANSPORTATION SEARCHES

An officer should conduct a custody search of an individual immediately after his/her arrest, when receiving an individual from the custody of another, and before transporting a person who is in custody in any department vehicle.

Whenever practicable, a custody search should be conducted by an officer of the same sex as the person being searched. If an officer of the same sex is not reasonably available, a witnessing officer should be present during the search.

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### **902.4 SEARCHES AT POLICE FACILITIES**

Custody searches shall be conducted on all individuals in custody, upon entry to the Palo Alto Police Department facilities. Except in exigent circumstances, the search should be conducted by a member of the same sex as the individual being searched. If a member of the same sex is not available, a witnessing member must be present during the search.

Custody searches should also be conducted any time an individual in custody enters or re-enters a secure area, or any time it is reasonably believed that a search is necessary to maintain the safety and security of the facility.

#### **902.4.1 PROPERTY**

Members shall take reasonable care in handling the property of an individual in custody to avoid discrepancies or losses. Property retained for safekeeping shall be kept in a secure location until the individual is released or transferred.

Some property may not be accepted by a facility or agency that is taking custody of an individual from this department, such as weapons or large items. These items should be retained for safekeeping in accordance with the Property and Evidence Policy.

All property shall be inventoried by objective description (this does not include an estimated value). The individual from whom it was taken shall be required to sign the completed inventory. If the individual's signature cannot be obtained, the inventory shall be witnessed by another department member. The inventory should include the case number, date, time, member's Palo Alto Police Department identification number and information regarding how and when the property may be released.

#### **902.4.2 VERIFICATION OF MONEY**

All money shall be counted in front of the individual from whom it was received. When possible, the individual shall initial the dollar amount on the inventory. Additionally, all money should be placed in a separate envelope and sealed. Negotiable checks or other instruments and foreign currency should also be sealed in an envelope with the amount indicated but not added to the cash total. All envelopes should clearly indicate the contents on the front. The department member sealing it should place his/her initials across the sealed flap. Should any money be withdrawn or added, the member making such change shall enter the amount below the original entry and initial it. The amount of money in the envelope should always be totaled and written on the outside of the envelope.

### **902.5 STRIP SEARCHES**

No individual in temporary custody at any Palo Alto Police Department facility shall be subjected to a strip search unless there is reasonable suspicion based upon specific and articulable facts to believe the individual has a health condition requiring immediate medical attention or is concealing a weapon or contraband. Factors to be considered in determining reasonable suspicion include, but are not limited to:

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- (a) The detection of an object during a custody search that may be a weapon or contraband and cannot be safely retrieved without a strip search.
- (b) Circumstances of a current arrest that specifically indicate the individual may be concealing a weapon or contraband.
  - 1. A felony arrest charge or being under the influence of a controlled substance should not suffice as reasonable suspicion absent other facts.
- (c) Custody history (e.g., past possession of contraband while in custody, assaults on department members, escape attempts).
- (d) The individual's actions or demeanor.
- (e) Criminal history (i.e., level of experience in a custody setting).

No transgender or intersex individual shall be searched or examined for the sole purpose of determining the individual's genital status. If the individual's genital status is unknown, it may be determined during conversations with the person, by reviewing medical records, or as a result of a broader medical examination conducted in private by a medical practitioner (28 CFR 115.115).

#### 902.5.1 STRIP SEARCH PROCEDURES

Strip searches at Palo Alto Police Department facilities shall be conducted as follows (28 CFR 115.115):

- (a) Written authorization from the Watch Commander shall be obtained prior to the strip search.
- (b) All members involved with the strip search shall be of the same sex as the individual being searched, unless the search is conducted by a medical practitioner.
- (c) All strip searches shall be conducted in a professional manner under sanitary conditions and in a secure area of privacy so that it cannot be observed by those not participating in the search. The search shall not be reproduced through a visual or sound recording.
- (d) Whenever possible, a second member of the same sex should also be present during the search, for security and as a witness to the finding of evidence.
- (e) Members conducting a strip search shall not touch the breasts, buttocks or genitalia of the individual being searched.
- (f) The primary member conducting the search shall prepare a written report to include:
  - 1. The facts that led to the decision to perform a strip search.
  - 2. The reasons less intrusive methods of searching were not used or were insufficient.
  - 3. The written authorization for the search, obtained from the Watch Commander.
  - 4. The name of the individual who was searched.
  - 5. The name and sex of the members who conducted the search.
  - 6. The name, sex and role of any person present during the search.

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7. The time and date of the search.
  8. The place at which the search was conducted.
  9. A list of the items, if any, that were recovered.
  10. The facts upon which the member based his/her belief that the individual was concealing a weapon or contraband.
- (g) No member should view an individual's private underclothing, buttocks, genitalia or female breasts while that individual is showering, performing bodily functions or changing clothes, unless he/she otherwise qualifies for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the individual with a shower or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to obtain the individual's consent and/or otherwise protect his/her privacy and dignity.
- (h) If the individual has been arrested for a misdemeanor or infraction offense, the written authorization from the Watch Commander shall include specific and articulable facts and circumstances upon which the reasonable suspicion determination for the search was made (Penal Code § 4030(f)).
- (i) A copy of the written authorization shall be retained and made available upon request to the individual or the individual's authorized representative. A record of the time, date, place of the search, the name and sex of the person conducting the search, and a statement of the results of the search shall also be retained and made available upon request to the individual or the individual's authorized representative (Penal Code § 4030(i)).

### **902.5.2 SPECIAL CIRCUMSTANCE FIELD STRIP SEARCHES**

A strip search may be conducted in the field only with Watch Commander authorization and only in exceptional circumstances, such as when:

- (a) There is probable cause to believe that the individual is concealing a weapon or other dangerous item that cannot be recovered by a more limited search.
- (b) There is probable cause to believe that the individual is concealing controlled substances or evidence that cannot be recovered by a more limited search, and there is no reasonable alternative to ensure the individual cannot destroy or ingest the substance during transportation.

These special-circumstance field strip searches shall only be authorized and conducted under the same restrictions as the strip search procedures in this policy, except that the Watch Commander authorization does not need to be in writing.

### **902.6 PHYSICAL BODY CAVITY SEARCH**

Physical body cavity searches shall be subject to the following:

- (a) No individual shall be subjected to a physical body cavity search without written approval of the Watch Commander and only upon a search warrant (Penal Code § 4030(h)). A copy

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- of any search warrant and the results of the physical body cavity search shall be included with the related reports and made available, upon request, to the individual or authorized representative (except for those portions of the warrant ordered sealed by a court).
- (b) Only a physician, nurse practitioner, registered nurse, licensed vocational nurse or Emergency Medical Technician Level II licensed to practice in California may conduct a physical body cavity search (Penal Code § 4030(k)).
  - (c) Except for the physician or licensed medical personnel conducting the search, persons present must be of the same sex as the individual being searched. Only the necessary department members needed to maintain the safety and security of the medical personnel shall be present (Penal Code § 4030(l)).
  - (d) Privacy requirements, including restricted touching of body parts and sanitary condition requirements, are the same as required for a strip search.
  - (e) All such searches shall be documented, including:
    - 1. The facts that led to the decision to perform a physical body cavity search of the individual.
    - 2. The reasons less intrusive methods of searching were not used or were insufficient.
    - 3. The Watch Commander's approval.
    - 4. A copy of the search warrant.
    - 5. The time, date and location of the search.
    - 6. The medical personnel present.
    - 7. The names, sex and roles of any department members present.
    - 8. Any contraband or weapons discovered by the search.
  - (f) Copies of the written authorization and search warrant shall be retained and shall be provided to the individual who was searched or other authorized representative upon request. A record of the time, date, place of the search, the name and sex of the person conducting the search and a statement of the results of the search shall also be retained and made available upon request to the individual or the individual's authorized representative (Penal Code § 4030(i)).

### **902.7 TRAINING**

The Personnel and Training Lieutenant shall ensure members have training that includes (28 CFR 115.115):

- (a) Conducting searches of cross-gender individuals.
- (b) Conducting searches of transgender and intersex individuals.

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- (c) Conducting searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

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## Prison Rape Elimination

### 904.1 PURPOSE AND SCOPE

This policy provides guidance for complying with the Prison Rape Elimination Act of 2003 (PREA) and the implementing regulation that establishes standards (PREA Rule) to prevent, detect and respond to sexual abuse, harassment and retaliation against detainees or prisoners in the Palo Alto Police Department Temporary Holding Facilities (28 CFR 115.111).

#### 904.1.1 DEFINITIONS

Definitions related to this policy include:

**Intersex** - A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development (28 CFR 115.5).

**Sexual abuse** - Any of the following acts, if the detainee does not consent, is coerced into such act by overt or implied threats of violence or is unable to consent or refuse:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva or anus
- Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object or other instrument
- Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh or the buttocks of another person, excluding contact incidental to a physical altercation (28 CFR 115.6)

Sexual abuse also includes abuse by a staff member, contractor or volunteer as follows, with or without consent of the detainee, prisoner or resident:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva or anus
- Contact between the mouth and any body part where the staff member, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire
- Penetration of the anal or genital opening, however slight, by a hand, finger, object or other instrument, that is unrelated to official duties, or where the staff member, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire
- Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh or the buttocks, that is unrelated to official duties, or where the staff member, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire

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- Any attempt, threat or request by a staff member, contractor or volunteer to engage in the activities described above
- Any display by a staff member, contractor or volunteer of his/her uncovered genitalia, buttocks or breast in the presence of a detainee, prisoner or resident
- Voyeurism by a staff member, contractor or volunteer (28 CFR 115.6)

**Sexual harassment** - Repeated and unwelcome sexual advances; requests for sexual favors; verbal comments, gestures or actions of a derogatory or offensive sexual nature by one detainee, prisoner or resident that are directed toward another; repeated verbal comments or gestures of a sexual nature to a detainee, prisoner or resident by a staff member, contractor or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures (28 CFR 115.6).

**Transgender** - A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth (28 CFR 115.5).

### **904.2 POLICY**

The Palo Alto Police Department has zero tolerance toward all forms of sexual abuse and sexual harassment (28 CFR 115.111). The Department will not tolerate retaliation against any person who reports sexual abuse or sexual harassment or who cooperates with a sexual abuse or sexual harassment investigation.

The Palo Alto Police Department will take immediate action to protect detainees and prisoners who are reasonably believed to be subject to a substantial risk of imminent sexual abuse (28 CFR 115.162).

### **904.3 PREA COORDINATOR**

The Chief of Police shall appoint an upper-level manager with sufficient time and authority to develop, implement and oversee department efforts to comply with PREA standards in the Palo Alto Police Department Temporary Holding Facilities (28 CFR 115.111). The PREA Coordinator's responsibilities shall include:

- (a) Developing and maintaining procedures to comply with the PREA Rule.
- (b) Ensuring that any contract for the confinement of detainees or prisoners includes the requirement to adopt and comply with applicable PREA and the PREA Rule, including the obligation to provide incident-based and aggregated data, as required in 28 CFR 115.187 (28 CFR 115.112).
- (c) Developing a staffing plan to provide adequate levels of staffing and video monitoring, where applicable, in order to protect detainees and prisoners from sexual abuse (28 CFR 115.113). This includes documenting deviations and the reasons for deviations from the staffing plan, as well as reviewing the staffing plan a minimum of once per year.



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- (d) Developing methods for staff to privately report sexual abuse and sexual harassment of detainees and prisoners (28 CFR 115.151).
- (e) Developing a written plan to coordinate response among staff first responders, medical and mental health practitioners, investigators and department leadership to an incident of sexual abuse (28 CFR 115.165).
- (f) Ensuring a protocol is developed for investigating allegations of sexual abuse in the Temporary Holding Facility. The protocol shall include (28 CFR 115.121; 28 CFR 115.122):
  - 1. Evidence collection practices that maximize the potential for obtaining usable physical evidence based on the most recent edition of the U.S. Department of Justice's (DOJ) Office on Violence Against Women publication, #A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents# or a similarly comprehensive and authoritative protocol.
  - 2. A process to ensure a criminal or administrative investigation is completed on all allegations of sexual abuse or sexual harassment.
  - 3. A process to document all referrals to other law enforcement agencies.
  - 4. Access to forensic medical examinations, without financial cost, for all victims of sexual abuse where appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The efforts to provide SAFEs or SANEs shall be documented.
  - 5. In accordance with security needs, provisions to permit, to the extent available, detainee and prisoner access to victim advocacy services if the detainee or prisoner is transported for a forensic examination to an outside hospital that offers such services.
- (g) Ensuring that detainees and prisoners with limited English proficiency and disabilities have an equal opportunity to understand and benefit from efforts to prevent, detect and respond to sexual abuse and sexual harassment. This includes, as appropriate, access to interpreters and written materials in formats or through methods that provide effective communication to those with disabilities (e.g., limited reading skills, intellectual, hearing or vision disabilities) (28 CFR 115.116).
  - 1. The agency shall not rely on other detainees or prisoners for assistance except in limited circumstances where an extended delay in obtaining an interpreter could compromise the detainee's or prisoner's safety, the performance of first-response duties under this policy, or the investigation of a prisoner's allegations of sexual abuse, harassment or retaliation.
- (h) Publishing on the department's website:

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1. Information on how to report sexual abuse and sexual harassment on behalf of a detainee or prisoner (28 CFR 115.154).
  2. A protocol describing the responsibilities of the Department and any other investigating agency that will be responsible for conducting sexual abuse or sexual harassment investigations (28 CFR 115.122).
- (i) Establishing a process that includes the use of a standardized form and set of definitions to ensure accurate, uniform data is collected for every allegation of sexual abuse at facilities under this agency's direct control (28 CFR 115.187).
1. The data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence, conducted by DOJ, or any subsequent form developed by DOJ and designated for lockups.
  2. The data shall be aggregated at least annually.
- (j) Ensuring audits are conducted pursuant to 28 CFR 115.401 through 28 CFR 115.405 for all Temporary Holding Facilities used to house detainees or prisoners overnight (28 CFR 115.193).
- (k) Ensuring contractors or others who work in the Temporary Holding Facility are informed of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment (28 CFR 115.132).

### **904.4 REPORTING SEXUAL ABUSE AND HARASSMENT**

Detainees or prisoners may make reports verbally, in writing, privately or anonymously of any of the following (28 CFR 115.151):

- Sexual abuse
- Sexual harassment
- Retaliation by other detainees or prisoners or staff for reporting sexual abuse or sexual harassment
- Staff neglect or violation of responsibilities that may have contributed to sexual abuse or sexual harassment

During intake the Department shall notify all detainees and prisoners of the zero-tolerance policy regarding sexual abuse and sexual harassment, and of at least one way to report abuse or harassment to a public or private entity that is not part of the Department and that is able to receive and immediately forward detainee or prisoner reports of sexual abuse and sexual harassment to agency officials. This allows the detainee or prisoner to remain anonymous (28 CFR 115.132; 28 CFR 115.151).

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#### 904.4.1 MEMBER RESPONSIBILITIES

Department members shall accept reports from detainees, prisoners and third parties and shall promptly document all reports (28 CFR 115.151).

All members shall report immediately to the Watch Commander any knowledge, suspicion or information regarding:

- (a) An incident of sexual abuse or sexual harassment that occurs in the Temporary Holding Facility.
- (b) Retaliation against detainees or the member who reports any such incident.
- (c) Any neglect or violation of responsibilities on the part of any department member that may have contributed to an incident or retaliation (28 CFR 115.161).

No member shall reveal any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment and investigation decisions.

#### 904.4.2 WATCH COMMANDER RESPONSIBILITIES

The Watch Commander shall report to the department's designated investigators all allegations of sexual abuse, harassment, retaliation, neglect or violations leading to sexual abuse, harassment or retaliation. This includes third-party and anonymous reports (28 CFR 115.161).

If the alleged victim is under the age of 18 or considered a vulnerable adult, the Watch Commander shall also report the allegation as required under mandatory reporting laws and department policy.

Upon receiving an allegation that a detainee or prisoner was sexually abused while confined at another facility, the Watch Commander shall notify the head of the facility or the appropriate office of the agency where the alleged abuse occurred. The notification shall be made as soon as possible but no later than 72 hours after receiving the allegation. The Watch Commander shall document such notification (28 CFR 115.163).

If an alleged detainee or prisoner victim is transferred from the Temporary Holding Facility to a jail, prison or medical facility, the Department shall, as permitted by law, inform the receiving facility of the incident and the prisoner's potential need for medical or social services, unless the prisoner requests otherwise (28 CFR 115.165).

#### 904.5 INVESTIGATIONS

The Department shall promptly, thoroughly and objectively investigate all allegations, including third-party and anonymous reports, of sexual abuse or sexual harassment. Only investigators who have received department-approved special training shall conduct sexual abuse investigations (28 CFR 115.171).

##### 904.5.1 FIRST RESPONDERS

The first officer to respond to a report of sexual abuse or sexual assault shall (28 CFR 115.164):

- (a) Separate the parties.

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- (b) Establish a crime scene to preserve and protect any evidence. Identify and secure witnesses until steps can be taken to collect any evidence.
- (c) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.
- (d) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.

If the first responder is not an officer the responder shall request that the alleged victim not take any actions that could destroy physical evidence and should then notify a law enforcement staff member (28 CFR 115.164).

#### 904.5.2 INVESTIGATOR RESPONSIBILITIES

Investigators shall (28 CFR 115.171):

- (a) Gather and preserve direct and circumstantial evidence, including any available physical and biological evidence and any available electronic monitoring data.
- (b) Interview alleged victims, suspects and witnesses.
- (c) Review any prior complaints and reports of sexual abuse involving the suspect.
- (d) Conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
- (e) Assess the credibility of the alleged victim, suspect or witness on an individual basis and not by the person's status as a detainee or a member of the Palo Alto Police Department.
- (f) Document in written reports a description of physical, testimonial, documentary and other evidence, the reasoning behind any credibility assessments, and investigative facts and findings.
- (g) Refer allegations of conduct that may be criminal to the District Attorney for possible prosecution, including any time there is probable cause to believe a detainee or prisoner sexually abused another detainee or prisoner in the Temporary Holding Facility (28 CFR 115.178).
- (h) Cooperate with outside investigators and remain informed about the progress of any outside investigation.

#### 904.5.3 ADMINISTRATIVE INVESTIGATIONS

Administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse. The departure of the alleged abuser or victim from the employment

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or control of this department shall not be used as a basis for terminating an investigation (28 CFR 115.171).

### **904.5.4 SEXUAL ASSAULT AND SEXUAL ABUSE VICTIMS**

No detainee or prisoner who alleges sexual abuse shall be required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation (28 CFR 115.171(e)).

Detainee or prisoner victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment. Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident (28 CFR 115.182).

### **904.5.5 CONCLUSIONS AND FINDINGS**

All completed investigations shall be forwarded to the Chief of Police, or if the allegations may reasonably involve the Chief of Police, to the City Manager. The Chief of Police or City Manager shall review the investigation and determine whether any allegations of sexual abuse or sexual harassment have been substantiated by a preponderance of the evidence (28 CFR 115.172).

All personnel shall be subject to disciplinary sanctions up to and including termination for violating this policy. Termination shall be the presumptive disciplinary sanction for department members who have engaged in sexual abuse. All discipline shall be commensurate with the nature and circumstances of the acts committed, the member's disciplinary history and the sanctions imposed for comparable offenses by other members with similar histories (28 CFR 115.176).

All terminations for violations of this policy, or resignations by members who would have been terminated if not for their resignation, shall be criminally investigated unless the activity was clearly not criminal and reported to any relevant licensing body (28 CFR 115.176).

Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with detainees or prisoners and reported to any relevant licensing bodies (28 CFR 115.177). The Chief of Police shall take appropriate remedial measures and consider whether to prohibit further contact with detainees or prisoners by a contractor or volunteer.

### **904.6 RETALIATION PROHIBITED**

All detainees, prisoners and members who report sexual abuse or sexual harassment or who cooperate with sexual abuse or sexual harassment investigations shall be protected from retaliation (28 CFR 115.167). If any other individual who cooperates with an investigation expresses a fear of retaliation, appropriate measures shall be taken to protect that individual.

The Watch Commander or the authorized designee shall employ multiple protection measures, such as housing changes or transfers for detainee or prisoner victims or abusers, removal of alleged abusers from contact with victims, and emotional support services for detainees, prisoners or members who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

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The Watch Commander or the authorized designee shall identify a staff member to monitor the conduct and treatment of detainees, prisoners or members who have reported sexual abuse and of detainees or prisoners who were reported to have suffered sexual abuse. The staff member shall act promptly to remedy any such retaliation. In the case of detainees or prisoners, such monitoring shall also include periodic status checks.

### **904.7 REVIEWS AND AUDITS**

#### **904.7.1 INCIDENT REVIEWS**

An incident review shall be conducted at the conclusion of every sexual abuse investigation, unless the allegation has been determined to be unfounded. The review should occur within 30 days of the conclusion of the investigation. The review team shall include upper-level management officials and seek input from line supervisors and investigators (28 CFR 115.186).

The review shall (28 CFR 115.186):

- (a) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect or respond to sexual abuse.
- (b) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender or intersex identification, status or perceived status; gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility.
- (c) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse.
- (d) Assess the adequacy of staffing levels in that area during different shifts.
- (e) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.

The review team shall prepare a report of its findings, including any determinations made pursuant to this section and any recommendations for improvement. The report shall be submitted to the Chief of Police and the PREA Coordinator. The Chief of Police or the authorized designee shall implement the recommendations for improvement or shall document the reasons for not doing so (28 CFR 115.186).

#### **904.7.2 DATA REVIEWS**

The facility shall conduct an annual review of collected and aggregated incident-based sexual abuse data. The review should include, as needed, data from incident-based documents, including reports, investigation files and sexual abuse incident reviews (28 CFR 115.187).

The purpose of these reviews is to assess and improve the effectiveness of sexual abuse prevention, detection and response policies, practices and training. An annual report shall be prepared that includes (28 CFR 115.188):

- (a) Identification of any potential problem areas.

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- (b) Identification of any corrective actions taken.
- (c) Recommendations for any additional corrective actions.
- (d) A comparison of the current year's data and corrective actions with those from prior years.
- (e) An assessment of the department's progress in addressing sexual abuse.

The report shall be approved by the Chief of Police and made readily available to the public through the department website or, if it does not have one, through other means. Material may be redacted from the reports when publication would present a clear and specific threat to the safety and security of the Temporary Holding Facility. However, the nature of the redacted material shall be indicated.

All aggregated sexual abuse data from Palo Alto Police Department facilities and private facilities with which it contracts shall be made readily available to the public at least annually through the department website or, if it does not have one, through other means. Before making aggregated sexual abuse data publicly available, all personal identifiers shall be removed (28 CFR 115.189).

### **904.8 RECORDS**

The Department shall retain all written reports from administrative and criminal investigations pursuant to this policy for as long as the alleged abuser is held or employed by the Department, plus five years (28 CFR 115.171).

All other data collected pursuant to this policy shall be securely retained for at least 10 years after the date of the initial collection unless federal, state or local law requires otherwise (28 CFR 115.189).

### **904.9 TRAINING**

All employees, volunteers and contractors who may have contact with detainees or prisoners shall receive department-approved training on the prevention and detection of sexual abuse and sexual harassment within this facility. The Personnel and Training Lieutenant shall be responsible for developing and administering this training as appropriate, covering at a minimum (28 CFR 115.131):

- The Department's zero-tolerance policy and the right of detainees and prisoners to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.
- The dynamics of sexual abuse and harassment in confinement settings, including which detainees and prisoners are most vulnerable.
- The right of detainees, prisoners and staff members to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.
- Detecting and responding to signs of threatened and actual abuse.
- Communicating effectively and professionally with all detainees and prisoners.

## *Prison Rape Elimination*

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- Compliance with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

Investigators assigned to sexual abuse investigations shall also receive training in conducting such investigations in confinement settings. Training should include (28 CFR 115.134):

- Techniques for interviewing sexual abuse victims.
- Proper use of *Miranda* and *Garrity* warnings.
- Sexual abuse evidence collection in confinement settings.
- Criteria and evidence required to substantiate a case for administrative action or prosecution referral.

The Personnel and Training Lieutenant shall maintain documentation that employees, volunteers, contractors and investigators have completed required training and that they understand the training. This understanding shall be documented through individual signature or electronic verification.

All current employees and volunteers who may have contact with detainees or prisoners shall be trained within one year of the effective date of the PREA standards. The agency shall provide annual refresher information to all such employees and volunteers to ensure that they understand the current sexual abuse and sexual harassment policies and procedures.



## **Chapter 10 - Personnel**

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## Recruitment and Selection

### 1000.1 PURPOSE AND SCOPE

The employment policy of the Palo Alto shall provide equal opportunities for applicants and its employees regardless of race, sexual orientation, age, pregnancy, religion, creed, color, national origin, ancestry, physical or mental handicap, marital status, military or veteran status, or sex, and shall not show partiality or grant any special favors to any applicant, employee or group of employees. The rules governing employment practices for this department are maintained by the Palo Alto Personnel and Training.

### 1000.2 APPLICANT QUALIFICATIONS

Candidates for job openings will be selected based on merit, ability, competence and experience.

All peace officer candidates must meet the minimum standards described in California Government Code § 1031 in addition to the employment standards established by this department.

#### 1000.2.1 VETERAN'S PREFERENCE

Qualifying veterans of the armed forces of the United States shall receive a veteran's preference as applicable. Preference points shall be added after the applicant has received a passing score on an entrance exam and is qualified for placement on the employment list (Government Code § 18978).

### 1000.3 STANDARDS

Employment standards shall be established for each job classification and shall include minimally, the special training, abilities, knowledge and skills required to perform the duties of the job in a satisfactory manner. The Palo Alto Personnel and Training maintains standards for all positions.

The dilemma facing the Department is one of developing a job-valid and non-discriminatory set of policies which will allow it to lawfully exclude persons who do not meet the Palo Alto or State of California hiring standards. The California Commission on Peace Officer Standards and Training (POST) developed a Job Dimensions list, which are used as a professional standard in background investigations.

The following standards have been adopted for public safety applicants:

#### 1000.3.1 OPERATION OF A MOTOR VEHICLE

- (a) The ability to possess a valid California driver's license
- (b) The ability to drive safely
- (c) The ability to control a motor vehicle at high speeds
- (d) The ability to operate a motor vehicle in all types of weather conditions
- (e) The following shall be disqualifying:

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1. Receipt of three or more moving violations (or any single violation of a potential life threatening violation, such as reckless driving, speed contest, suspect of a pursuit, etc.) within three years prior to application. Moving violations for which there is a factual finding of innocence shall not be included.
2. Involvement as a driver in two or more chargeable (at fault) collisions within three years prior to date of application.
3. A conviction for driving under the influence of alcohol and/or drugs within three years prior to application or any two convictions for driving under the influence of alcohol and/or drugs.

#### 1000.3.2 INTEGRITY

- (a) Refusing to yield to the temptation of bribes, gratuities, payoffs, etc.
- (b) Refusing to tolerate unethical or illegal conduct on the part of other law enforcement personnel
- (c) Showing strong moral character and integrity in dealing with the public
- (d) Being honest in dealing with the public
- (e) The following shall be disqualifying:
  1. Any material misstatement of fact or significant admission during the application or background process shall be disqualifying, including inconsistent statements made during the initial background interview (Personal History Statement or Supplemental Questionnaire) or polygraph examination or discrepancies between this background investigation and other investigations conducted by other law enforcement agencies.
  2. Any forgery, alteration, or intentional omission of material facts on an official employment application document or sustained episodes of academic cheating.

#### 1000.3.3 CREDIBILITY AS A WITNESS IN A COURT OF LAW

- (a) The ability to give testimony in a court of law without being subject to impeachment due to his/her honesty or veracity (or their opposites) or due to prior felony conviction.
- (b) The following shall be disqualifying:
  1. Conviction of any criminal offense classified as a misdemeanor under California law within three years prior to application
  2. Conviction for two or more misdemeanor offenses under California law as an adult
  3. Conviction of any offense classified as a misdemeanor under California law while employed as a peace officer (including military police officers)

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4. Admission(s) of having committed any act amounting to a felony (including felony-misdemeanor offenses) under California law, as an adult, within five years prior to application or while employed as a peace officer (including military police officers)
5. Admission(s) of administrative conviction of any act while employed as a peace officer (including military police officers) involving lying, falsification of any official report or document, or theft
6. Admission(s) of any act of domestic violence as defined by law, committed as an adult
7. Admission(s) of any criminal act, whether misdemeanor or felony, committed against children including but not limited to: molesting or annoying children, child abduction, child abuse, lewd and lascivious acts with a child, or indecent exposure. Acts of consensual unlawful intercourse accomplished between two minors shall not be included, unless more than four years difference in age existed at the time of the acts
8. Any history of actions resulting in civil lawsuits against the applicant or his/her employer may be disqualifying

#### 1000.3.4 DEPENDABILITY

- (a) Having a record of submitting reports on time and not malingering on calls, etc.
- (b) A record of being motivated to perform well
- (c) A record of dependability and follow through on assignments
- (d) A history of taking the extra effort required for complete accuracy in all details of work
- (e) A willingness to work the hours needed to complete a job
- (f) The following shall be disqualifying:
  1. Missing any scheduled appointment during the process without prior permission
  2. Having been disciplined by any employer (including military) as an adult for abuse of leave, gross insubordination, dereliction of duty, or persistent failure to follow established policies and regulations
  3. Having been involuntarily dismissed (for any reason other than lay-off) from two or more employers as an adult
  4. Having held more than seven paid positions with different employers within the past four years, or more than 15 paid positions with different employers in the past ten years (excluding military). Students who attend school away from their permanent legal residence may be excused from this requirement

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### *Recruitment and Selection*

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5. Having undergone personal bankruptcy more than once, having current financial obligations for which legal judgments have not been satisfied, currently having wages garnished, or any other history of financial instability
6. Resigning from any paid position without notice shall be disqualifying, except where the presence of a hostile work environment is alleged.
7. Having any outstanding warrant of arrest at time of application.

#### 1000.3.5 LEARNING ABILITY

- (a) The ability to comprehend and retain information
- (b) The ability to recall information pertaining to laws, statutes, codes, etc.
- (c) The ability to learn and to apply what is learned
- (d) The ability to learn and apply the material, tactics and procedures that are required of a law enforcement officer
- (e) The following shall be disqualifying:
  1. Being under current academic dismissal from any college or university where such dismissal is still in effect and was initiated within the past two years prior to the date of application
  2. Having been academically dismissed from any POST certified basic law enforcement academy wherein no demonstrated effort has been made to improve in the deficient areas, except: subsequent successful completion of another POST basic law enforcement academy shall rescind this requirement

#### 1000.3.6 PERSONAL SENSITIVITY

- (a) The ability to resolve problems in a way that shows sensitivity for the feelings of others.
- (b) Empathy
- (c) Discretion, not enforcing the law blindly
- (d) Effectiveness in dealing with people without arousing antagonism
- (e) The ability to understand the motives of people and how they will react and interact
- (f) The following shall be disqualifying:
  1. Having been disciplined by any employer (including the military and/or any law enforcement training facility) for acts constituting racial, ethnic or sexual harassment or discrimination
  2. Uttering any epithet derogatory of another person's race, religion, gender, national origin or sexual orientation
  3. Having been disciplined by any employer as an adult for fighting in the workplace

## *Recruitment and Selection*

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### 1000.3.7 JUDGMENT UNDER PRESSURE

- (a) The ability to apply common sense during pressure situations
- (b) The ability to make sound decisions on the spot
- (c) The ability to use good judgment in dealing with potentially explosive situations
- (d) The ability to make effective, logical decisions under pressure
- (e) The following shall be disqualifying:
  - 1. Admission(s) of administrative conviction or criminal convictions for any act amounting to assault under color of authority or any other violation of federal or state Civil Rights laws
  - 2. Any admission(s) of administrative conviction or criminal conviction for failure to properly report witnessed criminal conduct committed by another law enforcement officer

### 1000.3.8 ILLEGAL USE OR POSSESSION OF DRUGS

- (a) The following examples of illegal drug use or possession will be considered automatic disqualifiers for public safety applicants, with no exceptions:
  - 1. Any adult use or possession of a drug classified as a hallucinogenic within seven years prior to application for employment
  - 2. Any adult use or possession of marijuana within one year prior to application for employment
  - 3. Any other illegal adult use or possession of a drug not mentioned above (including cocaine) within three years prior to application for employment
  - 4. Any illegal adult use or possession of a drug while employed in any law enforcement capacity, military police, or as a student enrolled in college-accredited courses related to the criminal justice field
  - 5. Any adult manufacture or cultivation of a drug or illegal substance
  - 6. Failure to divulge to the Department any information about personal illegal use or possession of drugs
  - 7. Any drug test of the applicant, during the course of the hiring process, where illegal drugs are detected
- (b) The following examples of illegal drug use or possession will be considered in relationship to the overall background of that individual and may result in disqualification:
  - 1. Any illegal use or possession of a drug as a juvenile

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2. Any illegal adult use or possession of a drug that does not meet the criteria of the automatic disqualifiers specified above (e.g., marijuana use longer than one year ago or cocaine use longer than three years ago.)
3. Any illegal or unauthorized use of prescription medications

## Evaluation of Employees

### 1002.1 PURPOSE AND SCOPE

The Department's employee performance evaluation system is designed to record work performance for both the Department and the employee, providing recognition for good work and developing a guide for improvement.

### 1002.2 POLICY

The Palo Alto Police Department utilizes a performance evaluation report to measure performance and to use as a factor in making personnel decisions that relate to merit increases, promotion, reassignment, discipline, demotion and termination. The evaluation report is intended to serve as a guide for work planning and review by the supervisor and employee. It gives supervisors a way to create an objective history of work performance based on job standards.

The Department evaluates employees in a non-discriminatory manner based upon job-related factors specific to the employee's position, without regard to sex, race, color, national origin, religion, age, disability or other protected classes.

### 1002.3 EVALUATION PROCESS

Evaluation reports will cover a specific period of time and should be based on documented performance during that period. Evaluation reports will be completed by each employee's immediate supervisor. Other supervisors directly familiar with the employee's performance during the rating period should be consulted by the immediate supervisor for their input.

All sworn and civilian supervisory personnel shall attend an approved supervisory course that includes training on the completion of performance evaluations within one year of the supervisory appointment.

Each supervisor should discuss the tasks of the position, standards of performance expected and the evaluation criteria with each employee at the beginning of the rating period. Supervisors should document this discussion in the prescribed manner.

Assessment of an employee's job performance is an ongoing process. Continued coaching and feedback provides supervisors and employees with opportunities to correct performance issues as they arise.

Non-probationary employees demonstrating substandard performance shall be notified in writing of such performance as soon as possible in order to have an opportunity to remediate the issues. Such notification should occur at the earliest opportunity, with the goal being a minimum of 90 days written notice prior to the end of the evaluation period.

Employees who disagree with their evaluation and who desire to provide a formal response or a rebuttal may do so in writing in the prescribed format and time period.



## *Evaluation of Employees*

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### 1002.3.1 RESERVE OFFICER EVALUATIONS

Reserve officer evaluations are covered under the Reserve Officers Policy.

### 1002.4 FULL TIME PROBATIONARY PERSONNEL

Civilian personnel are on probation for 12 months before being eligible for certification as permanent employees. An evaluation is completed monthly for all full-time civilian personnel during the probationary period.

Sworn personnel are on probation for 12 months before being eligible for certification as permanent employees. Probationary officers are evaluated daily, weekly and monthly during the probationary period.

### 1002.5 FULL-TIME PERMANENT STATUS PERSONNEL

Permanent employees are subject to three types of performance evaluations:

**Regular** - An Employee Performance Evaluation shall be completed once each year by the employee's immediate supervisor on the anniversary of the employee's date of hire except for employees who have been promoted in which case an Employee Performance Evaluation shall be completed on the anniversary of the employee's date of last promotion.

**Transfer** - If an employee is transferred from one assignment to another in the middle of an evaluation period and less than six months have transpired since the transfer, then an evaluation shall be completed by the current supervisor with input from the previous supervisor.

**Special** - A special evaluation may be completed any time the rater and the rater's supervisor feel one is necessary due to employee performance that is deemed less than standard. Generally, the special evaluation will be the tool used to demonstrate those areas of performance deemed less than standard when follow-up action is planned (action plan, remedial training, retraining, etc.). The evaluation form and the attached documentation shall be submitted as one package.

#### 1002.5.1 RATINGS

When completing the Employee Performance Evaluation, the rater will place a check mark in the column that best describes the employee's performance. The definition of each rating category is as follows:

**Exceeds Standards** - Represents performance that is better than expected of a fully competent employee. It is superior to what is expected and in some cases may be exceptional and outstanding performance.

**Meets Standards** - Is the performance of a fully competent employee. It means satisfactory performance that meets the standards required of the position.

**Does Not Meet Standards** - Is a level of performance less than that expected of a fully competent employee and less than standards required of the position. A needs improvement rating must be thoroughly discussed with the employee. Inferior, inadequate, or undesirable performance that cannot be tolerated also falls into this performance rating category.

## *Evaluation of Employees*

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Space for written comments is provided at the end of the evaluation in the rater comments section. This section allows the rater to document the employee's strengths, weaknesses, and suggestions for improvement. Any rating under any job dimension marked unsatisfactory or outstanding shall be substantiated in the rater comments section with specific examples of documentation. .

### **1002.6 EVALUATION INTERVIEW**

When the supervisor has completed the preliminary evaluation, arrangements shall be made for a private discussion of the evaluation with the employee. If the employee has valid and reasonable protests of any of the ratings, they should be changed accordingly.

The supervisor and employee will sign and date the evaluation. Employees may complete a written rebuttal to all or part of the Annual Performance Evaluation which will be filed with the Performance Evaluation submitted.

#### **1002.6.1 DISCRIMINATORY HARASSMENT FORM**

At the time of each employee's annual evaluation, the reviewing supervisor shall require the employee to read the City and Department harassment and discrimination policies. Following such policy review, the supervisor shall provide the employee a form to be completed and returned by the employee certifying the following:

- (a) That the employee understands the harassment and discrimination policies.
- (b) Whether any questions the employee has have been sufficiently addressed.
- (c) That the employee knows how and where to report harassment policy violations.
- (d) Whether the employee has been the subject of, or witness to, any conduct that violates the discrimination or harassment policy which has not been previously reported.

The completed form should be returned to the supervisor (or other authorized individual if the employee is uncomfortable returning the form to the presenting supervisor) within one week.

The employee's completed answers shall be attached to the evaluation. If the employee has expressed any questions or concerns, the receiving supervisor or other authorized individual shall insure that appropriate follow up action is taken.

### **1002.7 EVALUATION REVIEW**

After the supervisor finishes the discussion with the employee, the signed performance evaluation is forwarded to the rater's supervisor (Division Captain/Coordinator). The Division Captain/Coordinator shall review the evaluation for fairness, impartiality, uniformity, and consistency. The Division Captain/Coordinator shall evaluate the supervisor on the quality of ratings given.

### **1002.8 EVALUATION DISTRIBUTION**

The original performance evaluation shall be maintained in the employee's personnel file in the office of the Chief of Police for the tenure of the employee's employment. A copy will be given to the employee and a copy will be forwarded to City of Palo Alto Personnel and Training.

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## Promotional and Transfer Policy

### 1004.1 PURPOSE AND SCOPE

It is the intent of the Department that all requests for change of assignment are considered equally. The regular and systematic rotation of police personnel through specialized assignments enhances the ability of the Department to accomplish its mission, and provides professional development for Department personnel. It shall therefore be the policy of the Department to encourage such rotation by establishing fair, uniform standards for the selection of personnel for specialized assignments and by establishing minimum and maximum limits for such assignments. To facilitate the selection process, the following procedure is established whereby all such requests will be reviewed on an equal basis as assignments are made.

Definition: Specialized Assignments are full-time assignments outside the basic patrol function; part-time (collateral duty) assignments that include tasks outside the basic patrol function, or temporary out of class assignments of more than sixty (60) days.

#### 1004.1.1 GENERAL REQUIREMENTS

The following conditions will be used in evaluating employees for promotion and transfer:

- (a) Present a professional, neat appearance.
- (b) Maintain a physical condition which aids in their performance.
- (c) Demonstrate the following traits:
  1. Emotional stability and maturity
  2. Stress tolerance
  3. Sound judgment and decision-making
  4. Personal integrity and ethical conduct
  5. Leadership
  6. Initiative
  7. Adaptability and flexibility
  8. Ability to conform to organizational goals and objectives in a positive manner.

### 1004.2 SWORN NON-SUPERVISORY SELECTION PROCESS

The following positions are considered transfers or specialties and are not considered promotions:

- (a) Special Enforcement Detail (SED);
- (b) Detective;
- (c) Motor Officer;
- (d) Field Training Officer;

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- (e) Personnel and Training Supervisor;
- (f) Field Services Staff Assistant;
- (g) Special Weapons and Tactics;
- (h) Crisis Negotiation Team (CNT);
- (i) Crime Scene Investigation (CSI) Officer;
- (j) K-9 Handler;
- (k) Communications Training Officer;
- (l) Tactical Dispatcher;
- (m) Defensive Tactics Instructor;
- (n) Range Master;
- (o) Emergency Medical / PPE Instructor;
- (p) Driving Instructor;
- (q) Bicycle Officer;
- (r) Recruiting Team Officer;
- (s) Public Information Officer;
- (t) Designated Rifle Officer;
- (u) STAR Team;
- (v) Critical Incident Stress Management Team

### 1004.2.1 DESIRABLE QUALIFICATIONS

The following qualifications apply to consideration for transfer:

- (a) Off probation;
- (b) Has shown an expressed interest in the position applied for;
- (c) Education, training and demonstrated abilities in related areas; such as, enforcement activities, investigative techniques, report writing, public relations, etc.;
- (d) Complete any training required by POST;
- (e) Meets the selection criteria as posted.

### 1004.3 VACANCIES

Rotation of personnel will normally occur at shift change in July. It shall be the duty of the responsible manager to notify the Field Services Division Captain or his/her designee of all anticipated vacancies on a timely basis. In order to ensure a well-coordinated shift change and allow all personnel to make timely choices regarding assignments, it shall be the duty of the

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Field Services Division Captain or his/her designee to post a schedule providing deadlines for notifications of intended transfers, job postings, application deadlines, testing processes, and FSD bidding processes. Such schedule shall be posted no later than January 1st of each year.

On occasion, vacancies may occur in Specialized Assignments outside the normal rotation at the July shift change. On such occasions, the responsible manager shall post notice of the anticipated vacancy as soon as practical after the vacancy is identified. Notices of anticipated vacancies in Specialized Assignments shall be posted a minimum of two weeks before the application deadline. No extensions of final filing dates for Specialized Assignments shall be granted unless no qualified applicants have applied by the originally posted deadline. Under exigent circumstances, when such posting would threaten the mission of the Department, the two week posting requirement may be waived upon approval of the Chief. In any case, when the posting requirement is waived, the Chief shall notify the President of the Palo Alto Peace Officers' Association (PAPOA) of the waiver and the reasons thereof within one working day.

#### **1004.4 GENERAL REQUIREMENTS**

The following conditions will be used in evaluating a member of the Palo Alto Police Department for specialty assignment:

- (a) Presents a professional, neat appearance;
- (b) The member maintains a physical condition, which aids in their performance;
- (c) Demonstrates:
  - 1. Emotional stability and maturity;
  - 2. Sound judgment and decision making;
  - 3. Personal integrity;
  - 4. Honesty;
  - 5. Leadership;
  - 6. Initiative;
  - 7. Ability to confront and/or deal with issues both positive and/or negative;
  - 8. Ability to conform to organizational goals and objectives.

##### **1004.4.1 POSTINGS**

Postings for Specialized Assignments shall contain a job description for the assignment; eligibility criteria; performance standards; a description of the selection process; the name of the supervisor or manager responsible for the selection, and a due date for applications. Performance standards shall describe the minimum acceptable levels expected of the position. These standards may include, but are not limited to:

- (a) Cognitive or technical skills;

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- (b) Ability to work;
- (c) Initiative and productivity;
- (d) Organization;
- (e) Motivation;
- (f) Compatibility with coworkers, or;
- (g) Any other circumstance or condition which is pertinent to performance in the position.

### 1004.4.2 RESPONSIBILITIES

It shall be the responsibility of each Division Captain/Coordinator to insure that current, accurate copies of job descriptions, eligibility criteria, performance standards and selection processes for each Specialized Assignment in his or her command are on file in the Personnel and Training Unit. The Personnel and Training Unit shall maintain and have available for review for each Specialized Assignment, current job descriptions, eligibility criteria, performance standards and selection processes. Modifications to job descriptions, eligibility criteria, performance standards or selection processes shall not occur without notification to the Personnel and Training Lieutenant and PAPOA.

### 1004.5 APPLICATIONS

Qualified sergeants, agents or officers interested in applying for any Specialized Assignment shall submit an "Application for Specialized Assignment," to the responsible manager listed on the posting. Applications may be obtained from Personnel and Training. The responsible manager shall review all applications to ensure that applicants meet minimum eligibility criteria. If, in the judgment of the responsible manager, an applicant fails to meet minimum eligibility criteria, the manager shall, as soon as practical, notify the applicant that his or her application will not be accepted and the reasons thereof.

#### 1004.5.1 SUPERVISORY RECOMMENDATION

After having reviewed the "Applications for Specialized Assignment," the responsible manager shall request written input from each qualified candidate's supervisors during the last two (2) fiscal years. An evaluation form shall be used for this purpose. The form shall be retained for one (1) year by Personnel and Training with the rater's notes for the individual candidate and shall be available for review by the candidate.

#### 1004.5.2 TESTING

It shall be the responsibility of the responsible manager to plan and administer a fair, job-related test to evaluate qualified candidates. Based on the nature of the specialized assignment, testing may consist of a single process, such as an oral board, or may include multiple processes such as a written exam, an oral board and/or a practical exam. Each process used shall be scored, using 70% as a passing score. Applicants failing any single process shall be disqualified from further consideration and shall not be allowed to participate in remaining processes. Additionally, some specialized positions may require psychological screening.

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### 1004.5.3 INTERVIEWS

All interviews shall consist of a panel of two or three people who are currently assigned to the specialty. The manager who is responsible for the specialty assignment shall be one of the panel members. The panel for an acting supervisor/lieutenant assignment shall consist of the Lieutenant or Captain that will be managing the acting position and the Chief. Interview questions shall be consistent for each candidate. A standard set of questions will be developed before the interview. The interview panel may ask follow-up questions based on candidate responses. Questions shall be limited to areas that relate to suitability for the position, and assess such areas as:

- (a) Cognitive and technical skills;
- (b) Experience;
- (c) Motivation;
- (d) Ability to perform essential job functions.

Questions regarding non-job-related factors are not permitted. Rater notes shall be collected and retained by the Personnel and Training Unit for a period of one year. Rater notes will be used to evaluate candidate suitability, and to provide candidate feedback. Candidates may upon request review notes of the raters.

### 1004.6 SELECTION

Selection of personnel for Specialized Assignments shall be based upon merit.

The responsible manager shall compile an eligibility list of all passing candidates. The responsible manager shall then recommend to the appropriate Division Captain/Coordinator a selection from the eligible candidates based on consideration of such factors as performance during testing processes, performance appraisals, supervisory recommendations and personnel records. If the Division Captain/Coordinator concurs with the selection, he or she shall seek final approval for the selection from the Chief. The Chief shall remain the final authority for selection of personnel for Specialized Assignments.

Any candidate who passes the selection process but is not selected for a specialized assignment may request verbal or written feedback from the responsible manager recommending the selection.

#### 1004.6.1 NON-SELECTION

If an appointment is not made (Sergeant, Agent, Officer) the Division Captain/Coordinator may re-post and re-interview for the positions.

In the event that no acceptable applicants are identified, the positions may be filled based upon established seniority criteria with the following exceptions:

- (a) Those sergeants, agents and officer already in specialty assignments will not be considered;
- (b) Those sergeants, agents, officers who have served the maximum tenure in a specialty position and are exempt from administrative assignment for a one- year period of time will

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not be considered. In the event all sergeants, agents, officers without such exemption are deemed unacceptable by the Division Captain/Coordinator, the least senior sergeant with this exemption shall be subject to administrative assignment to the Specialized Assignment.

### **1004.7 DURATION OF ASSIGNMENT**

Tenure in any specialized assignment shall be based upon continued accomplishment of the performance standards of the position. Candidates may be removed from specialized assignments for failure to meet performance standards and/or disciplinary reasons.

Each specialized assignment shall have an established time "cap" which limits the maximum duration of the assignment. Exceptions to established caps must be approved by the Chief of Police. Normally, exceptions will be considered only in exigent circumstances, when the mission of the Department is threatened by normal rotation.

Caps on part-time specialties can be waived when the Department elects to expand the number of part-time specialties; when no new applicants apply; or when the mission of the Department would be threatened by normal rotation.

#### **1004.7.1 PART-TIME SPECIALIZED ASSIGNMENT CAPS**

- Public Information Officer 2 year minimum
- Recruiting Team 2 year minimum
- Bicycle Team 2 year minimum
- Defensive Tactics Officer 2 year minimum
- First Aid/CPR Instructor 2 year minimum
- Designated Rifle Officer 2 year minimum
- Driving Instructor 2 year minimum
- Crime Scene Investigation Officer 2 year minimum
- Range Master 2 year minimum
- Special weapons and tactics 2 year minimum
- Specialized Traffic Accident Reconstruction Team 2 year minimum
- Crisis Negotiation Team 2 year minimum
- CISM Team 2 year minimum

There is no maximum time in a part time specialized assignment, however this does not prohibit the Chief of Police or his/her designee from removing an officer from a part time specialized assignment for the purpose of rotating personnel, employee development or any other organizational need.



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#### 1004.7.2 FULL TIME SPECIALIZED ASSIGNMENT CAPS

- Personnel & Training Supervisor 1 year minimum 3 year maximum
- Staff Assistant (FSD) 1 year minimum 3 year maximum
- ISD (Property Crimes) 1 year minimum 3 year maximum
- ISD (Robbery/Homicide) 2 year minimum 5 year maximum
- ISD (Sexual Assault) 2 year minimum 5 year maximum
- ISD (Financial Crimes) 2 year minimum 5 year maximum
- ISD (Elder Abuse/Domestic Violence) 2 year minimum 5 year maximum
- ISD (High Tech Task Force) 3 year minimum 5 year maximum
- ISD Sergeant (2) 2 year minimum 3 year maximum
- Canine 5 year minimum 7 year maximum \*
- Traffic (non-motor) 1 year minimum 1 year maximum
- Traffic (motor) 3 year minimum 5 year maximum
- Traffic Sergeant (motor) 3 year minimum 5 year maximum
- Field Training Sergeant (3) 1 year minimum 3 year maximum
- Field Training Officer 2 year minimum 5 year maximum
- Special Enforcement Detail 1 year minimum 1 year maximum

\* The canine maximum may be extended beyond 7 years upon mutual agreement between the canine handler and management.

#### 1004.7.3 REQUIRED PATROL ASSIGNMENT

Agents and officers applying for a full-time Specialized Assignment outside of the uniformed patrol division (such as FSD Staff Assistant, P&T Supervisor, ISD) must complete twelve (12) consecutive months on a Field Services Division patrol team immediately prior to transfer to a Specialized Assignment. While there is no requirement that sergeants return to the Field Services Division for twelve (12) consecutive months, preference in the selection of sergeants for Specialized Assignment will generally be given to sergeants currently assigned to non-specialized assignments.

Personnel may apply for Specialized Assignments prior to serving twelve (12) months in Patrol, however, are not eligible for transfer until the twelve (12) months are completed.

#### 1004.7.4 EXCEPTIONS

Exceptions to this requirement are as follows:

- (a) Agents and officers assigned to the Investigative Services Division and applying for vacancies in Task Forces, High Tech Financial Crimes, Robbery/Homicide, Sexual Assault,

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Elder Abuse/Domestic Violence are exempt from this section. If selected, however, such personnel shall be subject to the new position's cap;

- (b) Officers having completed twenty (20) years of service and retiring within twelve (12) months may apply to the Chief for a one-year exemption to this policy;

#### **1004.8 MID YEAR VACANCIES**

- (a) Specialty Assignments that are filled from January 1 through June 30, shall not count toward the first year of a Specialty Assignment. Specialty Assignments that are filled from July 1 through December 31, shall count towards the first year of a Specialty Assignment.
- (b) Temporary assignments of sixty (60) days or less are not considered Specialized Assignments and are excluded from the provision of this policy.

#### **1004.9 SPECIALTY SUPERVISOR VACANCY ASSIGNMENTS**

- (a) Supervisor Vacancies anticipated for less than sixty (60) days:
  - 1. Opening(s) will be posted and interested candidates will have an opportunity to submit a memorandum of interest to the respective Division Captain.
  - 2. An eligible Sergeant, Agent or Officer will be administratively appointed.
  - 3. The decision to fill a position with either a Sergeant or an Acting Sergeant will take into account such considerations as: The greater mission of the organization; the professional development of department personnel; the current needs of the respective division/unit where the opening exists; the qualifications and specialized skills of the candidate(s); staffing impacts; and, when Agents or Officers are being considered, those not having had prior acting opportunities or presently residing on the promotional list.
- (b) Supervisor Vacancies anticipated for more than sixty (60) days:
  - 1. The position(s) will be open to qualified Sergeant, Agents and Officers.
  - 2. The selection process as outlined in Policy Manual §§ 1004.42 through 1004.6 will be employed.
  - 3. The decision to fill a position with either a Sergeant or an Acting Sergeant will take into account such considerations as: The greater mission of the organization; the professional development of department personnel; the current needs of the respective division/unit where the opening exists; the qualifications and specialized skills of the candidate(s); staffing impacts; and, when Agents or Officers are being considered, those not having had prior acting opportunities or presently residing on the promotional list.
- (c) Exceptions:

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1. If an opening is anticipated to be vacant for more than ninety (90) days and is expected to remain vacant through the duration of the current Shift Year, and;
  2. Occurs in a Full-Time Specialized Assignment:
    - (a) ISD
    - (b) Traffic
    - (c) Field Training Program
    - (d) Special Operations
    - (e) Special Problems Team
    - (f) Public Relations (If filled by a Sergeant)
  3. Then only Sergeants would be eligible to apply for the opening. If no Sergeants applied, then an acting opportunity would be extended to Agents and Officers.
  4. The selection process as outlined in Policy Manual §§ 1004.42 through 1004.6 will be employed.
  5. Selection criteria will consider the greater mission of the organization, professional development of department personnel, the current needs of the respective division/unit where the opening exists, staffing impacts; and, qualifications and specialized skills of the candidate(s).
- (d) The guesstimate of vacancy lengths will be made in good faith, based upon the facts and information known at the time of posting.

#### **1004.10 PROMOTIONAL PROCESS**

It shall be the policy of the Palo Alto Police Department to maintain a fair and consistent, performance based promotional process, which identifies the most qualified candidates for promotion, provides equal opportunity to all qualified candidates, and supports each employee in their professional growth.

#### **1004.11 PROCEDURES**

##### **1004.11.1 SCHEDULING AND ANNOUNCEMENTS**

- (a) Promotional tests for the ranks of Sergeant and Agent shall be given annually.
- (b) The Personnel and Training Unit shall post a promotional reading list, specific to each rank, in January of each year. The Police Chief shall determine the content of the reading list. Copies of items listed on the reading list will be maintained in the Personnel and Training Unit.
- (c) Promotional testing process announcements shall be posted by the Personnel and Training Unit no later than sixty (60) days prior to the date of the testing process.

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- (d) Promotional announcements shall contain: a job description, minimum application qualifications, the reading list, the date(s) of the process, the elements of the selection process, the challenge procedure and the relative weight and scoring of each phase of the process.
- (e) On the posting date of any promotional announcement, a departmental memorandum, in the form of an email, announcing the posting shall be sent to all members of the Department. Additionally, promotional announcements shall be posted conspicuously throughout the Department.

#### 1004.11.2 MINIMUM ENTRY REQUIREMENTS

##### (a) Agent

1. Three (3) years full time experience as a peace officer, the last two (2) years of which must have been with the Palo Alto Police Department by the closing date of the posting;
2. First Class Officer Status by the closing date of the posting;
3. College degree preferred.

##### (b) Sergeant

1. Four (4) years full time experience as a peace officer, the last two (2) years of which must have been with the Palo Alto Police Department by the closing date of the posting; First Class Officer status by the closing date of the posting;
2. POST Intermediate Certificate;
3. College degree preferred.

##### (c) Lieutenant

1. A minimum of two (2) years experience as a police sergeant by the closing date of the posting;
2. Bachelor's degree;
3. POST Supervisory Certificate or an equivalent combination of training and experience as determined by the Police Chief.

##### (d) Captain

1. A minimum of two (2) years experience as a police lieutenant by the closing date of the posting;
2. Bachelor's degree. Graduate level work preferred;
3. POST Management Certificate or equivalent combination of training and experience as determined by the Police Chief;
4. Command College or FBI National Academy preferred.

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(e) Assistant Chief

1. A minimum of five (5) years combined experience as a police lieutenant and police captain;
2. Bachelor's degree in law enforcement, public or business administration, or related field. Master's degree preferred;
3. POST Management Certificate or equivalent combination of training and experience as determined by the Police Chief;
4. Command College or FBI National Academy preferred.

#### 1004.11.3 ELEMENTS OF THE PROMOTIONAL TESTING PROCESS

Testing and evaluation processes shall be non-discriminatory and job related. Each element of the promotional process shall be designed to evaluate relevant job knowledge, skills and abilities. Testing and evaluation processes may include any, or any combination of, the following elements:

- (a) Application/ Resume Review (All ranks);
- (b) Written Examination (Sergeant and Agent ranks);
- (c) Problem Solving/ Writing Assignment (All ranks);
- (d) Oral Examination (All ranks);
- (e) Practical/ Assessment Center Exercises/ Panel Interviews (Management ranks);
- (f) Staff/ Supervisory Input/ Background Investigation (All ranks);
- (g) Review of Personnel, Training and Internal Affairs records (All ranks);
- (h) Chief's Interview (All ranks).

#### 1004.11.4 TESTING PROCESS AND SCORING

Test Construction: Testing process elements may be developed by any, or any combination of, the following:

- Human Resources Department;
- Personnel Department;
- Management Personnel; and/or
- Reputable consulting firms.

Scoring: Scored elements of the testing process, for the Sergeant and Agent rank shall include:

- Written tests;
- Problem solving/ writing exercises; and
- Oral examinations.

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In addition to these elements, scored elements for management ranks may also include practical/assessment center exercises. Each separate element shall be scored on a percentage basis. Scores shall be rounded off to the nearest 100th of a percentage point. A minimum score of 70% shall be necessary in each phase of the process to proceed to the next level of testing, with the exception that if the same written test is used for both Agent and Sergeant candidates, a score of 80% shall be required for Sergeant candidates. Relative Weight: A relative weight shall be assigned to each scored element of the testing process. Weights for Sergeant and Agent processes shall be:

- Written- 30%;
- Problem Solving/ Writing Exercise-30%;
- Oral Examination- 40%.

Relative weights for management processes shall be determined by the Police Chief. Anonymity: In all scored phases of the testing process candidates will be identified by number. Every effort will be made to maintain anonymity between candidates and raters. Written Examinations:

- For Sergeant and Agent testing processes, the examination will be validated by a reputable consulting firm, approved by both Department management and PAPOA;
- Content of written examinations shall be limited to sources listed on the reading list. Source and page number will be noted on the test;
- A representative from the Human Resources Department and a member of the Personnel and Training Unit shall be in attendance at the written examination to proctor the examination and to answer any questions that may arise;
- Should a candidate elect to challenge any question on the written examination, the candidate may do so based on: the keyed answer being incorrect; more than one answer being correct, or the keyed answer conflicting with Department policy. For Agents' and Sergeants' testing processes, a three-member board to rule on challenged questions will be chaired by a Human Resources representative and will include a PAPOA representative and a representative of the Police Personnel and Training Unit. If, by a majority vote, the board rules in favor of the challenger, the question(s) will be deleted from the exam and all candidates' scores adjusted accordingly.

Problem Solving/Writing Assignment:

- Candidates shall be required to read and analyze one or more problems and respond as directed;
- Problems will be job related and to the extent possible, specific to the promotional position;
- To satisfactorily complete the Problem Solving/Writing Assignment, candidates will be required to demonstrate basic proficiency on the City of Palo Alto's designated word processing software, Microsoft Word;

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- For Agents' and Sergeants' testing processes, Problem Solving/ Writing Assignments shall be scored by a minimum three raters who have been previously approved by Department Management and PAPOA. Raters will receive training prior to the grading process. Raters will work independently. Scores shall be based 33% on written communication skills, 33% on problem solving ability and 33% on judgment and decision making. A candidate's final score shall be the mean (average) of the total scores from each rater.

#### Oral Examinations:

- Oral boards for the ranks of Sergeant and Agent shall consist of four members, mutually agreed upon by Department management and PAPOA. One member shall be a Palo Alto Police Department employee. Two members of the oral board shall be selected from outside law enforcement agencies. One member shall be a citizen of good standing from the Palo Alto community. All members selected from law enforcement agencies shall hold a rank at least one rank higher than the position for which they are testing.
- Oral examinations shall be "structured" with the questions or problems consistent for each candidate.
- Candidates shall be rated on a standardized rating form, which will be available for review, by the candidate at the conclusion of the process.

#### Practical/ Assessment Center Exercises (Management Only):

- Practical and/or assessment center exercises, prior to being administered, shall be reviewed and approved by a professional personnel specialist.
- Assessors will be thoroughly trained prior to practical or assessment center exercises.
- Candidates shall be rated on a standardized form, which will be available for review, by the candidate at the conclusion of the process.

Staff Input: The Police Chief may solicit input from Police Department staff at the rank of the promotional candidates' immediate supervisor or higher.

- Staff input shall include an evaluation of each candidate's previous work performance, knowledge, skills and abilities.
- Staff input shall be presented on a standardized form, which shall be available for review, by the candidate at the conclusion of the process.
- A thorough background investigation will be conducted on all non-PAPD candidates.

Chief's Interview: The Chief's interview shall be the final element in any promotional process.

- The Chief's interview may, at the discretion of the Police Chief, include the Assistant Police Chief.
- If the Assistant Police Chief is included for any interview, he or she shall be included for all interviews.

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- The interview shall be structured in nature, consistent for all candidates, and focus on each candidate's relative experience, knowledge, skills, abilities and contributions to the Department.
- The Chief's interview will not be scored.
- For a single promotion, the Chief will interview the top ten candidates on the final ranking list. For multiple promotions, the Chief will interview a number of candidates equal to the number of promotions plus ten.

#### 1004.11.5 FINAL RANKING LIST

- (a) Final ranking shall be determined by applying the assigned weights to the scores of the test elements.
- (b) The names and scores of all candidates with passing scores will be posted in numerical order.
- (c) If at the time of appointment the final ranking list contains three or less candidates, the chief may, at his or her discretion, elect to promote from the list or to terminate the list.
- (d) Lists shall automatically expire twelve months after posting.

#### 1004.11.6 COACHING AND FEEDBACK

- (a) The Personnel and Training Unit shall, no less than twice a year, present a coaching class to assist candidates in preparation for the written, problem solving/writing exercise, oral examinations, and practical/assessment center exercises.
- (b) The purpose of candidate feedback is to help candidates improve their performance in subsequent promotional processes. Candidates may schedule feedback meetings after any promotional process by contacting the Personnel and Training Unit. The Personnel and Training Unit will review with each candidate that candidate's performance on each element of the promotional process and provide advice on how the candidate might improve performance.



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## Grievance Procedure

### 1006.1 PURPOSE AND SCOPE

It is the policy of this department that all grievances be handled quickly and fairly without discrimination against employees who file a grievance whether or not there is a basis for the grievance. Our Department's philosophy is to promote a free verbal communication between employees and supervisors.

#### 1006.1.1 GRIEVANCE DEFINED

A grievance is any difference of opinion concerning terms or conditions of employment or the dispute involving the interpretation or application of any of the following documents by the person(s) affected:

- The employee bargaining agreement (Memorandum of Understanding)
- This Policy Manual
- City rules & regulations covering personnel practices or working conditions

Grievances may be brought by an individual affected employee or by a group representative.

Specifically outside the category of grievance are complaints related to alleged acts of sexual, racial, ethnic or other forms of unlawful harassment, as well as complaints related to allegations of discrimination on the basis of sex, race, religion, ethnic background and other lawfully protected status or activity are subject to the complaint options set forth in Policy Manual § 328, and personnel complaints consisting of any allegation of misconduct or improper job performance against any department employee that, if true, would constitute a violation of department policy, federal, state or local law set forth in Policy Manual §1020.

### 1006.2 PROCEDURE

If an employee feels that he or she has a grievance as defined above, then that employee shall attempt to resolve the grievance at the lowest possible level through their chain of command. The employee shall be prepared to present the following:

- (a) The basis for the grievance, ie, the facts of the case;
- (b) Allegations of specific wrongful act(s) and harm done;
- (c) What they would like to accomplish through the grievance.

If the grievance cannot be resolved at the lowest level, the employee has the right to pursue their grievance in accordance with their specific bargaining agreement and the City's Merit Rules and Regulations. The grievance procedure is specifically outlined in the City's Merit Rules as well as the specific restrictive time-lines that need to be followed.

## *Grievance Procedure*

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### **1006.3 EMPLOYEE REPRESENTATION**

Employees are entitled to have representation during the grievance process. The representative may be selected by the employee from the appropriate employee bargaining group.

### **1006.4 GRIEVANCE RECORDS**

At the conclusion of the grievance process, all documents pertaining to the process shall be forwarded to Administrative Services for inclusion into a secure file for all written grievances. A second copy of the written grievance will be maintained by the City Manager's office to monitor the grievance process.

### **1006.5 GRIEVANCE AUDITS**

The Personnel and Training Lieutenant shall perform an annual audit of all grievances filed the previous calendar year to evaluate whether or not any policy/procedure changes or training may be appropriate to avoid future filings of grievances. The Personnel and Training Lieutenant shall record these findings in a confidential and generic memorandum to the Chief of Police without including any identifying information from any individual grievance. If the audit identifies any recommended changes or content that may warrant a critical revision to this policy manual, the Personnel and Training Lieutenant should promptly notify the Chief of Police.

## Anti-Retaliation

### 1008.1 PURPOSE AND SCOPE

This policy prohibits retaliation against members who identify workplace issues, such as fraud, waste, abuse of authority, gross mismanagement or any inappropriate conduct or practices, including violations that may pose a threat to the health, safety or well-being of members.

This policy does not prohibit actions taken for nondiscriminatory or non-retaliatory reasons, such as discipline for cause.

These guidelines are intended to supplement and not limit members' access to other applicable remedies. Nothing in this policy shall diminish the rights or remedies of a member pursuant to any applicable federal law, provision of the U.S. Constitution, law, ordinance or memorandum of understanding.

### 1008.2 POLICY

The Palo Alto Police Department has a zero tolerance for retaliation and is committed to taking reasonable steps to protect from retaliation members who, in good faith, engage in permitted behavior or who report or participate in the reporting or investigation of workplace issues. All complaints of retaliation will be taken seriously and will be promptly and appropriately investigated.

### 1008.3 RETALIATION PROHIBITED

No member may retaliate against any person for engaging in lawful or otherwise permitted behavior; for opposing a practice believed to be unlawful, unethical, discriminatory or retaliatory; for reporting or making a complaint under this policy; or for participating in any investigation related to a complaint under this or any other policy.

Retaliation includes any adverse action or conduct, including but not limited to:

- Refusing to hire or denying a promotion.
- Extending the probationary period.
- Unjustified reassignment of duties or change of work schedule.
- Real or implied threats or other forms of intimidation to dissuade the reporting of wrongdoing or filing of a complaint, or as a consequence of having reported or participated in protected activity.
- Taking unwarranted disciplinary action.
- Spreading rumors about the person filing the complaint or about the alleged wrongdoing.
- Shunning or unreasonably avoiding a person because he/she has engaged in protected activity.

## *Anti-Retaliation*

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### **1008.4 COMPLAINTS OF RETALIATION**

Any member who feels he/she has been retaliated against in violation of this policy should promptly report the matter to any supervisor, command staff member, Chief of Police or the City Personnel and Training Lieutenant.

Members shall act in good faith, not engage in unwarranted reporting of trivial or minor deviations or transgressions, and make reasonable efforts to verify facts before making any complaint in order to avoid baseless allegations. Members shall not report or state an intention to report information or an allegation knowing it to be false, with willful or reckless disregard for the truth or falsity of the information or otherwise act in bad faith.

Investigations are generally more effective when the identity of the reporting member is known, thereby allowing investigators to obtain additional information from the reporting member. However, complaints may be made anonymously. All reasonable efforts shall be made to protect the reporting member's identity. However, confidential information may be disclosed to the extent required by law or to the degree necessary to conduct an adequate investigation and make a determination regarding a complaint. In some situations, the investigative process may not be complete unless the source of the information and a statement by the member is part of the investigative process.

### **1008.5 SUPERVISOR RESPONSIBILITIES**

Supervisors are expected to remain familiar with this policy and ensure that members under their command are aware of its provisions.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring complaints of retaliation are investigated as provided in the Personnel Complaints Policy.
- (b) Receiving all complaints in a fair and impartial manner.
- (c) Documenting the complaint and any steps taken to resolve the problem.
- (d) Acknowledging receipt of the complaint, notifying the Chief of Police via the chain of command and explaining to the member how the complaint will be handled.
- (e) Taking appropriate and reasonable steps to mitigate any further violations of this policy.
- (f) Monitoring the work environment to ensure that any member making a complaint is not subjected to further retaliation.
- (g) Periodic follow-up with the complainant to ensure that retaliation is not continuing.
- (h) Not interfering with or denying the right of a member to make any complaint.
- (i) Taking reasonable steps to accommodate requests for assignment or schedule changes made by a member who may be the target of retaliation if it would likely mitigate the potential for further violations of this policy.

## *Anti-Retaliation*

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### **1008.6 COMMAND STAFF RESPONSIBILITIES**

The Chief of Police should communicate to all supervisors the prohibition against retaliation.

Command staff shall treat all complaints as serious matters and shall ensure that prompt actions take place, including but not limited to:

- (a) Communicating to all members the prohibition against retaliation.
- (b) The timely review of complaint investigations.
- (c) Remediation of any inappropriate conduct or condition and instituting measures to eliminate or minimize the likelihood of recurrence.
- (d) The timely communication of the outcome to the complainant.

### **1008.7 WHISTLE-BLOWING**

California law protects members who (Labor Code § 1102.5; Government Code § 53296 et seq.):

- (a) Report a violation of a state or federal statute or regulation to a government or law enforcement agency, including the member's supervisor or any other member with the authority to investigate the reported violation.
- (b) Provide information or testify before a public body if the member has reasonable cause to believe a violation of law occurred.
- (c) Refuse to participate in an activity that would result in a violation of a state or federal statute or regulation.
- (d) File a complaint with a local agency about gross mismanagement or a significant waste of funds, abuse of authority or a substantial and specific danger to public health or safety. Members shall exhaust all available administrative remedies prior to filing a formal complaint.

Members are encouraged to report any legal violations through the chain of command (Labor Code § 1102.5).

Members who believe they have been the subject of retaliation for engaging in such protected behaviors should promptly report it to a supervisor. Supervisors should refer the complaint to the Internal Affairs Unit for investigation pursuant to the Personnel Complaints Policy.

#### **1008.7.1 DISPLAY OF WHISTLE-BLOWER LAWS**

The Department shall display a notice to members regarding their rights and responsibilities under the whistle-blower laws, including the whistle-blower hotline maintained by the Office of the Attorney General (Labor Code § 1102.8).

### **1008.8 RECORDS RETENTION AND RELEASE**

The Records Manager shall ensure that documentation of investigations is maintained in accordance with the established records retention schedules.

## *Anti-Retaliation*

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### **1008.9 TRAINING**

The policy should be reviewed with each new member.

All members should receive periodic refresher training on the requirements of this policy.

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## Reporting of Employee Convictions

### 1010.1 PURPOSE AND SCOPE

Convictions of certain offenses may restrict or prohibit an employee's ability to properly perform official duties. Therefore, all employees shall be required to promptly notify the Department of any past and current criminal convictions.

The Administrative Services Supervisor shall submit in a timely manner a notice to the Commission on Peace Officer Standards and Training (POST) of any appointment, termination, reinstatement, name change or status change regarding any peace officer, reserve peace officer, public safety dispatcher and records supervisor employed by this department (11 CCR 1003).

The Administrative Services Supervisor shall submit in a timely manner a notice to POST of a felony conviction or Government Code § 1029 reason that disqualifies any current peace officer employed by this department or any former peace officer if this department was responsible for the investigation (11 CCR 1003).

### 1010.2 DOMESTIC VIOLENCE CONVICTIONS AND RESTRAINING ORDERS

California and federal law prohibit individuals convicted of certain offenses and individuals subject to certain court orders from lawfully possessing a firearm. Such convictions and court orders often involve allegations of the use or attempted use of force or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 USC § 922; Penal Code § 29805).

All members are responsible for ensuring that they have not been disqualified from possessing a firearm by any such conviction or court order and shall promptly report any such conviction or court order to a supervisor, as provided in this policy.

### 1010.3 OTHER CRIMINAL CONVICTIONS

Government Code § 1029 prohibits any person convicted of a felony from being a peace officer in the State of California. This prohibition applies regardless of whether the guilt was established by way of a verdict, guilty or nolo contendere plea.

Convictions of certain violations of the Vehicle Code and other provisions of law may also place restrictions on an employee's ability to fully perform the duties of the job.

Moreover, while legal restrictions may or may not be imposed by statute or by the courts upon conviction of any criminal offense, criminal conduct by members of this department may be inherently in conflict with law enforcement duties and the public trust.

### 1010.4 REPORTING PROCEDURE

All members of this department and all retired officers with an identification card issued by the Department shall promptly notify their immediate supervisor (or the Chief of Police in the case of

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retired officers) in writing of any past or current criminal arrest or conviction regardless of whether or not the matter is currently on appeal and regardless of the penalty or sentence, if any.

All members and all retired officers with an identification card issued by the Department shall further promptly notify their immediate supervisor (or the Chief of Police in the case of retired officers) in writing if the member or retiree becomes the subject of a domestic violence restraining order or similar court order.

Any member whose criminal conviction unduly restricts or prohibits that member from fully and properly performing his/her duties may be disciplined including, but not limited to, being placed on administrative leave, reassignment and/or termination. Any effort to remove such disqualification or restriction shall remain entirely the responsibility of the member on his/her own time and expense.

Any member failing to provide prompt written notice pursuant to this policy shall be subject to discipline.

### **1010.5 PROCEDURE FOR RELIEF**

Pursuant to Penal Code § 29855, a peace officer may petition the court for permission to carry a firearm following a conviction under state law. Federal law, however, does not provide for any such similar judicial relief and the granting of a state court petition under Penal Code § 29855 will not relieve one of the restrictions imposed by federal law. Therefore, relief for any employee falling under the restrictions imposed by federal law may only be obtained by expungement of the conviction. Each employee shall seek relief from firearm restrictions on their own time and through their own resources.

Pursuant to Family Code § 6389(h), an individual may petition the court for an exemption to any restraining order, which would thereafter permit the individual to carry a firearm as a part of their employment. Relief from any domestic violence or other restriction shall also be pursued through the employee's own resources and on the employee's own time.

Pending satisfactory proof of relief from any legal restriction imposed on an employee's duties, the employee may be placed on administrative leave, reassigned or disciplined. The Department may, but is not required to return an employee to any assignment, reinstate any employee or reverse any pending or imposed discipline upon presentation of satisfactory proof of relief from any legal restriction set forth in this policy.



## Address and Telephone Number Changes

### 1011.1 PURPOSE AND SCOPE

Employees are subject to "call" on a twenty-four (24) hour basis to ensure that major events have an adequate response. Therefore, it shall be the Palo Alto Police Department's policy that all employees shall have a telephone at their primary residence. Further, it is imperative that the "call-up" list be maintained and kept current.

### 1011.2 PROCEDURE

All employees of the Palo Alto Police Department shall report any change in their address or telephone number within twenty-four (24) hours. Such information shall be directed to the employee's immediate supervisor on the form provided. Employees should also insure that copies of the required form are routed to the Personnel and Training Unit. Forms are available through the Personnel and Training Unit.

## Alcohol and Drug Use

### 1012.1 PURPOSE AND SCOPE

The purpose of this policy is to establish clear and uniform guidelines regarding drugs and alcohol in the workplace.

### 1012.2 POLICY

It is the policy of this department to provide a drug- and alcohol-free workplace for all members.

### 1012.3 GENERAL GUIDELINES

Alcohol and drug use in the workplace or on department time can endanger the health and safety of department members and the public. Such use shall not be tolerated (41 USC § 8103).

Members who have consumed an amount of an alcoholic beverage or taken any medication, or combination thereof, that would tend to adversely affect their mental or physical abilities shall not report for duty. Affected members shall notify the Watch Commander or appropriate supervisor as soon as the member is aware that he/she will not be able to report to work. If the member is unable to make the notification, every effort should be made to have a representative contact the supervisor in a timely manner. If the member is adversely affected while on-duty, he/she shall be immediately removed and released from work (see Work Restrictions in this policy).

#### 1012.3.1 USE OF MEDICATIONS

Members should avoid taking any medications that will impair their ability to safely and completely perform their duties. Any member who is medically required or has a need to take any such medication shall report that need to his/her immediate supervisor prior to commencing any on-duty status.

No member shall be permitted to work or drive a vehicle owned or leased by the Department while taking any medication that has the potential to impair his/her abilities, without a written release from his/her physician.

Possession of medical marijuana or being under the influence of marijuana on- or off-duty is prohibited and may lead to disciplinary action.

### 1012.4 MEMBER RESPONSIBILITIES

Members shall report for work in an appropriate mental and physical condition. Members are prohibited from purchasing, manufacturing, distributing, dispensing, possessing or using controlled substances or alcohol on department premises or on department time (41 USC § 8103). The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

Members who are authorized to consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance.

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Members shall notify a supervisor immediately if they observe behavior or other evidence that they believe demonstrates that a fellow member poses a risk to the health and safety of the member or others due to drug or alcohol use.

Members are required to notify their immediate supervisors of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction (41 USC § 8103).

### **1012.5 EMPLOYEE ASSISTANCE PROGRAM**

There may be available a voluntary employee assistance program to assist those who wish to seek help for alcohol and drug problems (41 USC § 8103). Insurance coverage that provides treatment for drug and alcohol abuse also may be available. Employees should contact the Personnel and Training, their insurance providers or the employee assistance program for additional information. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

### **1012.6 WORK RESTRICTIONS**

If a member informs a supervisor that he/she has consumed any alcohol, drug or medication that could interfere with a safe and efficient job performance, the member may be required to obtain clearance from his/her physician before continuing to work.

If the supervisor reasonably believes, based on objective facts, that a member is impaired by the consumption of alcohol or other drugs, the supervisor shall prevent the member from continuing work and shall ensure that he/she is safely transported away from the Department.

### **1012.7 REQUESTING SCREENING TESTS**

The supervisor may request an employee to submit to a screening test under the following circumstances:

- (a) The supervisor reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs that are impairing his/her ability to perform duties safely and efficiently.
- (b) The employee discharges a firearm, other than by accident, in the performance of his/her duties.
- (c) During the performance of his/her duties, the employee drives a motor vehicle and becomes involved in an incident that results in bodily injury to him/herself or another person, or substantial damage to property.

#### **1012.7.1 SUPERVISOR RESPONSIBILITY**

The supervisor shall prepare a written record documenting the specific facts that led to the decision to request the test, and shall inform the employee in writing of the following:

- (a) The test will be given to detect either alcohol or drugs, or both.

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- (b) The result of the test is not admissible in any criminal proceeding against the employee.
- (c) The employee may refuse the test, but refusal may result in dismissal or other disciplinary action.

### **1012.7.2 SCREENING TEST REFUSAL**

An employee may be subject to disciplinary action if he/she:

- (a) Fails or refuses to submit to a screening test as requested.
- (b) After taking a screening test that indicates the presence of a controlled substance, fails to provide proof, within 72 hours after being requested, that he/she took the controlled substance as directed, pursuant to a current and lawful prescription issued in his/her name.
- (c) Violates in provisions of this policy.

### **1012.8 COMPLIANCE WITH THE DRUG-FREE WORKPLACE ACT**

No later than 30 days following notice of any drug statute conviction for a violation occurring in the workplace involving a member, the Department will take appropriate disciplinary action, up to and including dismissal, and/or requiring the member to satisfactorily participate in a drug abuse assistance or rehabilitation program (41 USC § 8104).

### **1012.9 CONFIDENTIALITY**

The Department recognizes the confidentiality and privacy due to its members. Disclosure of any information relating to substance abuse treatment, except on a need-to-know basis, shall only be with the express written consent of the member involved or pursuant to lawful process.

The written results of any screening tests and all documents generated by the employee assistance program are considered confidential medical records and shall be maintained separately from the employee's other personnel files.

## Sick Leave Policy

### 1014.1 PURPOSE AND SCOPE

Employees of this department are provided with a sick leave benefit that gives them continued compensation during times of absence due to personal or family illness. The number of hours available is detailed in the employee's respective personnel manual or applicable collective bargaining agreement.

This policy is not intended to cover all types of sick or other leaves. For example, employees may be entitled to additional paid or unpaid leave for certain family and medical reasons as provided for in the Family and Medical Leave Act (FMLA) , the California Family Rights Act or for organ or bone marrow donor procedures (29 CFR 825; Government Code § 12945.2; Labor Code § 1510).

### 1014.2 EMPLOYEE RESPONSIBILITIES

Sick leave may be used for absences caused by illness, injury, temporary disability (including pregnancy/maternity), or for medical, dental or vision exams or medical treatment of the employee or the employee's immediate family when it is not possible to schedule such appointments during non-working hours.

Sick leave is not considered vacation, and abuse of sick leave may result in discipline and/or denial of sick-leave benefits. Employees on sick leave shall not engage in other employment or self-employment, or participate in any sport, hobby, recreational or other activity which may impede recovery from the injury or illness.

Upon return to work, employees shall complete and submit a leave request describing the type of leave used and the specific amount of time taken.

#### 1014.2.1 NOTIFICATION

Employees are encouraged to notify the Personnel and Training or appropriate supervisor as soon as they are aware that they will not be able to report to work. At a minimum, employees shall make such notification no less than one hour before the start of their scheduled shift. If an employee is unable to contact the supervisor in the case of an emergency, every effort should be made to have a representative contact the supervisor.

When the necessity for leave is foreseeable, such as an expected birth or planned medical treatment, the employee shall, whenever possible, provide the Department with no less than 30-days notice of the intent to take leave.

### 1014.3 EXTENDED ILLNESS

Employees on extended absences shall, if possible, contact their unit supervisor at three-day intervals to provide an update on their absence and expected date of return. Employees absent from duty due to personal illness in excess of three consecutive days may be required to furnish a statement from their health care provider supporting the use of sick leave and/or the ability to return to work.

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Nothing in this section precludes a supervisor, with cause, from requiring a physician's statement if three or fewer sick days are taken.

### **1014.4 SUPERVISOR RESPONSIBILITY**

Supervisors should monitor sick leave usage and regularly review the attendance of employees under their command to ensure that the use of sick leave is consistent with this policy. Supervisors should address sick-leave use in the employee's performance evaluation when it has negatively affected the employee's performance or ability to complete assigned duties, and when unusual amounts of sick leave by the employee has had a negative impact on department operations. When appropriate, supervisors should counsel employees regarding the excessive use of sick leave and should consider referring the employee to the Employee Assistance Program.

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## Communicable Diseases

### 1016.1 PURPOSE AND SCOPE

This policy is intended to provide guidelines for department personnel to assist in minimizing the risk of contracting and/or spreading communicable diseases and to minimize the incidence of illness and injury. The policy will offer direction in achieving the following goals:

- (a) To manage the risks associated with blood borne pathogens (BBP), aerosol transmissible diseases, and other potentially infectious substances.
- (b) To assist department personnel in making decisions concerning the selection, use, maintenance, limitations, storage, and disposal of personal protective equipment (PPE).
- (c) To protect the privacy rights of all department personnel who may be exposed to or contract a communicable disease during the course of their duties.
- (d) To provide appropriate treatment and counseling should an employee be exposed to a communicable disease.

### 1016.2 PROCEDURES FOR EXPOSURE TO BLOOD, BODILY FLUIDS OR AEROSOL TRANSMISSIBLE DISEASES

All department personnel who are exposed to another person's blood, bodily fluids or an aerosol transmissible disease (e.g., during an altercation or while attending to any injured person) shall follow these procedures and guidelines.

Exposure to blood or other potentially infectious materials includes, but is not limited to, the contact of such substances with the eye, mouth, other mucous membranes, non-intact skin, needle sticks, human bites, cuts or abrasions or any exposure that otherwise qualifies under Health and Safety Code § 121060.1 or 8 CCR § 5193.

Exposure to an aerosol transmissible disease is any event in which all of the following have occurred (8 CCR 5199):

- (a) An employee has been exposed to an individual who is a case or a suspected case of a reportable aerosol transmissible disease, or to a work area or to equipment that is reasonably expected to contain aerosol transmissible pathogens associated with a reportable aerosol transmissible disease.
- (b) The exposure occurred without the benefit of applicable exposure controls required by this policy.
- (c) It reasonably appears from the circumstances of the exposure that transmission of disease is sufficiently likely to require medical evaluation.

#### 1016.2.1 EXPOSURE CONTROL OFFICER

The Chief of Police will assign a person as the Department's Exposure Control Officer. The ECO shall be responsible for the following:

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- (a) The overall management of the bloodborne pathogen Exposure Control Plan (ECP).
- (b) Establishing written procedures and a training program related to aerosol transmissible diseases, as required by 8 CCR § 5199.
- (c) Working with management to develop and administer any additional related policies and practices necessary to support the effective implementation of this plan.
- (d) Remaining current on all legal requirements concerning bloodborne pathogens and other communicable diseases, as required by 8 CCR § 5193.
- (e) Acting as a liaison during OSHA inspections, conducting program audits to maintain an up-to-date ECP and ensuring exposure report forms are available and adequate for employees to properly report incidents of exposure.
- (f) Maintaining an up-to-date list of police personnel requiring training. Developing and implementing a training program, maintaining class rosters and quizzes, and periodically reviewing and updating the training program.
- (g) Reviewing and updating the ECP annually (on or before January 1 of each year).

Department supervisors are responsible for exposure control in their respective areas. They shall work directly with the ECO and any affected employees to ensure that the proper exposure control procedures are followed.

#### 1016.2.2 UNIVERSAL PRECAUTIONS

All human blood and body fluids such as saliva, urine, semen, and vaginal secretions are to be treated as if they are known to be infectious. Where it is not possible to distinguish between body fluid types, all body fluids are to be assumed potentially infectious.

#### 1016.2.3 PERSONAL PROTECTIVE EQUIPMENT

Personal protective equipment is the last line of defense against communicable disease. Therefore, the following equipment is provided for all personnel to assist in the protection against such exposures:

- Not less than two pair disposable latex gloves. (Keeping a box in the car recommended.)
- Safety glasses or goggles
- Rescue mask with a one-way valve
- Alcohol (or similar substance) to flush skin at emergency site. (Keeping several alcohol hand wipes in the car recommend)

The protective equipment is to be kept in each police vehicle; inspected at the start of each shift and replaced immediately upon returning to the station if used or damaged during the shift, or as otherwise needed.



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#### 1016.2.4 IMMUNIZATIONS

All department personnel who, in the line of duty, may be exposed to or have contact with a communicable disease shall be offered appropriate treatment immunization.

#### 1016.2.5 WORK PRACTICES

All personnel shall use the appropriate barrier precautions to prevent skin and mucous membrane exposure whenever contact with blood or body fluid is anticipated.

Disposable gloves shall be worn on all medical emergency responses. Disposable gloves shall be worn before making physical contact with any patient and/or when handling items (e.g., evidence, transportation vehicle) soiled with blood or other body fluids. Should one's disposable gloves become contaminated with blood or other body fluids, the gloves shall be disposed of as contaminated waste. Care should be taken to avoid touching other items (e.g., pens, books, and personal items in general) while wearing the disposable gloves in a potentially contaminated environment.

All procedures involving blood or other potentially infectious materials shall be done in a way to minimize splashing, spraying, or otherwise generating droplets of those materials.

Eating, drinking, smoking, applying lip balm, and handling contact lenses shall be prohibited in areas where a potential for an exposure exists.

#### **1016.3 DISPOSAL AND DECONTAMINATION**

The following procedures will apply to the disposal and decontamination after responding to an event that involved contact with a person's blood or body fluids:

##### 1016.3.1 USE OF WASTE CONTAINERS

Officers shall dispose of biohazard with the on-scene fire response vehicle, or at the attending clinic/hospital with their approval, or in an appropriately marked biohazard waste container at the station immediately upon arrival.

The biohazard waste container located at the station shall be collapsible, leakproof, red in color or appropriately labeled with a biohazard warning and routinely emptied.

##### 1016.3.2 DECONTAMINATION OF SKIN AND MUCOUS MEMBRANES

Personnel shall wash their hands immediately (on-scene if possible), or as soon as possible following the removal of potentially contaminated gloves. Antibacterial soap and warm water or an approved disinfectant shall be used to wash one's hands, paying particular attention to the fingernails.

If an employee's intact skin contacts someone else's blood or bodily fluids or other potentially infectious materials, the employee shall immediately wash the exposed part of his/her body with soap and warm water and/or an approved disinfectant, as soon as possible. If the skin becomes grossly contaminated, body washing shall be followed by an approved hospital strength disinfectant. If large areas of the employee's skin are contaminated, the employee shall shower as

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soon as possible, using warm water and soap and/or an approved disinfectant. Medical treatment should be obtained.

Contaminated non-intact skin (e.g., injured skin, open wound) shall be cleaned using an approved disinfectant and then dressed or bandaged as required. Medical treatment is required.

All hand, skin, and mucous membrane washing that takes place in the station shall be done in the designated cleaning or decontamination area. Cleaning shall not be done in the kitchen, bathrooms, or other locations not designated as the cleaning or decontamination area.

#### 1016.3.3 SHARPS AND ITEMS THAT CUT OR PUNCTURE

All personnel shall avoid using or holding sharps (needles) unless needed to do so while assisting a paramedic, or collecting them for evidence. Unless required for evidentiary reasons related to evidence preservation, employees are not to recap sharps. If recapping is necessary, a one-handed method shall be employed to avoid a finger prick. Disposal, when practicable, shall be into a puncture proof biohazard container.

All sharps and items that cut or puncture (e.g., broken glass, razors, and knives) shall be treated cautiously to avoid cutting, stabbing, or puncturing one's self or any other person. In addition, if a sharp object contains known or suspected blood or other bodily fluids, that item is to be treated as a contaminated item. If the item is not evidence, touching it with the hands shall be avoided. Rather, use a device such as tongs, or a broom and a dustpan to cleanup debris. If the material must be hand held, protective gloves must be worn.

#### 1016.3.4 DISPOSABLE PROTECTIVE EQUIPMENT

Contaminated disposable supplies (gloves, dressings, CPR mask) shall be transported with the patient or suspect in the ambulance or police vehicle. The waste material shall then be disposed of in a biohazard waste container at the hospital or police station. Disposable gloves are to be worn while placing the waste into the waste biohazard container, placing the gloves in with the waste when through.

#### 1016.3.5 DECONTAMINATION OF PERSONAL PROTECTIVE EQUIPMENT

After using any reusable personal protective equipment, it shall be washed or disinfected and stored appropriately. If the personal protective equipment is non-reusable (e.g., disposable gloves), it shall be discarded in a biohazard waste container as described in Policy Manual § 1016.3.4.

Any personal protective equipment that becomes punctured, torn, or loses its integrity, shall be removed as soon as feasible. The employee shall wash up and replace the personal protective equipment if the job has not been terminated. If this situation resulted in a contaminated non-intact skin event, Policy Manual § 1016.3.2 shall be implemented.

Contaminated reusable personal protective equipment that must be transported prior to cleaning it shall be placed into a biohazard waste bag and transported in the ambulance, paramedic truck or

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police vehicle. Gloves shall be worn while handling the biohazard waste bag and during placement into the biohazard waste container, and then included in with the waste.

#### 1016.3.6 DECONTAMINATION OF NON-DISPOSABLE EQUIPMENT

Contaminated non-disposable equipment (e.g., flashlight, gun, baton, clothing, portable radio) shall be decontaminated as soon as possible. If it is to be transported, it shall be done by first placing it into a biohazard waste bag.

Grossly contaminated non-disposable equipment items shall be transported to a hospital, fire station, or police station for proper cleaning and disinfecting. Porous surfaces such as nylon bags and straps shall be brushed and scrubbed with a detergent and hot water, laundered and allowed to dry. Non-porous surfaces (e.g., plastic or metal) shall be brushed and scrubbed with detergent and hot water, sprayed with a bleach solution, rinsed, and allowed to dry. Delicate equipment (e.g., radios) should be brushed and scrubbed very carefully using a minimal amount of a type of germicide that is approved by Environmental Protection Agency (EPA) .

While cleaning equipment, pay close attention to handles, controls, portable radios, and corners (tight spots). Equipment cleaning shall not be done in the kitchen, bathrooms, or other areas not designated as the cleaning/decontamination area.

Contaminated equipment should be cleaned using an approved EPA germicide or a 1:100 solution of chlorine bleach (one-quarter-cup of bleach per one gallon of water) while wearing disposable gloves and goggles. Large particles of contaminants such as, vomit, feces, blood clots, etc. should first be removed (using a disposable towel or other means to prevent direct contact) and properly disposed of.

#### 1016.3.7 DECONTAMINATION OF CLOTHING

Contaminated clothing such as uniforms and undergarments shall be removed as soon as feasible and rinsed in cold water to prevent the setting of bloodstains. If the clothing may be washed in soap and hot water, do so as soon as possible. If the clothing must be dry cleaned, place it into a biohazard waste bag and give it to the Exposure Control Officer. The ECO will secure a dry cleaner that is capable of cleaning contaminated clothing, and inform them of the potential contamination. This dry cleaning will be done at the Department's expense.

Contaminated leather boots shall be brushed and scrubbed with detergent and hot water. If the contaminant soaked through the boot, the boot shall be discarded.

#### 1016.3.8 DECONTAMINATION OF VEHICLES

Contaminated vehicles and components such as the seats, radios, and doors shall be washed with soap and warm water and disinfected with an approved germicide as soon as feasible.

#### 1016.3.9 DECONTAMINATION OF STATION AND CLEANING AREA

The ECO shall designate a location at the station that will serve as the area for cleaning/decontamination. This area is to be used to keep equipment clean and sanitary and for the employees to wash any potential contamination from their bodies. This area is to be thoroughly

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cleaned after each use and to be maintained in a clean and sanitary order at all times between each use. The application of cosmetics, smoking cigarettes, consuming food and drink are prohibited in this designated area at all times.

### **1016.4 POST-EXPOSURE REPORTING AND FOLLOW-UP REQUIREMENTS**

In actual or suspected exposure incidents, proper documentation and follow-up action must occur to limit potential liabilities and to ensure the best protection and care for the employee(s).

#### **1016.4.1 EMPLOYEE RESPONSIBILITY TO REPORT EXPOSURE**

To provide appropriate and timely treatment should exposure occur, all employees shall verbally report the exposure to their immediate supervisor and complete a written exposure report as soon as possible following the exposure or suspected exposure. That report shall be submitted to the employee's immediate supervisor. Additionally, employees should document in the exposure report whether they would like the person who was the source of the exposure to be tested for communicable diseases.

#### **1016.4.2 SUPERVISOR REPORTING REQUIREMENTS**

The supervisor on-duty shall investigate every exposure that occurs as soon as possible following the incident, while gathering the following information:

- (a) Name and social security number of the employee(s) exposed.
- (b) Date and time of incident.
- (c) Location of incident.
- (d) What potentially infectious materials were involved.
- (e) Source of material or person.
- (f) Current location of material or person.
- (g) Work being done during exposure.
- (h) How the incident occurred or was caused.
- (i) PPE in use at the time of the incident.
- (j) Actions taken post-event (e.g., clean-up, notifications).

The supervisor shall advise the employee of the laws and regulations concerning disclosure of the identity and infectious status of a source, and Policy § 1016.5, which addresses source testing.

If the ECO is unavailable to seek testing of the person who was the source of the exposure, it is the responsibility of the exposed employee's supervisor to ensure testing is sought (Policy § 1016.5).

#### **1016.4.3 MEDICAL CONSULTATION, EVALUATION AND TREATMENT**

Any employee who was exposed or who suspects he/she was exposed to HIV or to hepatitis B or C should be seen by a physician or qualified health care provider as soon as possible. The doctor or qualified health care provider should be provided with the supervisor's report and the employee's

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medical records relevant to the visit and examination. The blood of the exposed employee shall be tested.

The health care professional will provide the ECO and/or the City's Risk Manager with a written opinion/evaluation of the exposed employee's medical condition. This opinion should only contain the following information:

- If a post-exposure treatment is indicated for the employee.
- If the employee received a post-exposure treatment.
- Confirmation that the employee received the evaluation results.
- Confirmation that the employee was informed of any medical condition resulting from the exposure incident and whether further treatment or evaluation will be required.
- Whether communicable disease testing from the source is warranted, and if so, which diseases should the testing include.

All other findings or diagnosis shall remain confidential and are not to be included in the written report.

### 1016.4.4 COUNSELING

The Department shall provide the exposed employee (and his/her family if necessary) the opportunity for counseling and consultation.

### 1016.4.5 CONFIDENTIALITY OF REPORTS

Most of the information involved in this process must remain confidential. The ECO shall ensure that all records and reports are kept in the strictest confidence.

The ECO shall be responsible for maintaining records containing the employee's treatment status and the results of examinations, medical testing and follow-up procedures.

The Risk Manager shall be responsible for maintaining the name and social security number of the employee and copies of any information provided to the consulting health care professional.

This information is confidential and shall not be disclosed to anyone without the employee's written consent (except as required by law). Test results from persons who may have been the source of an exposure are to be kept confidential as well.

### **1016.5 SOURCE TESTING**

Testing for communicable diseases of a person who was the source of an exposure should be sought when it is desired by the exposed employee or when it is otherwise appropriate. There are five methods to obtain such testing. It is the responsibility of the ECO to ensure that the proper testing and reporting occur. These methods are:

- (a) Obtaining voluntary consent from any person who may be the source of an exposure to cover testing for any communicable disease.

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- (b) Filing a report with the county health officer when an employee is exposed to the bodily fluids of an arrestee. The county health officer may pursue testing for HIV or hepatitis B or C (Penal Code § 7510 et seq.).
- (c) Seeking consent for testing or applying for a court order for HIV, hepatitis B and hepatitis C testing (Health and Safety Code § 121060 et seq.).
- (d) Seeking a court order when the person who may be the source of an exposure will not consent to testing and the exposure does not fall under the statutory schemes for testing. This covers testing for any communicable disease as deemed appropriate by a health care professional and documented in the request for the court order.
- (e) Under certain circumstances, a court may issue a search warrant for the purpose of HIV testing an adult or juvenile when an employee of the Palo Alto Police Department qualifies as a crime victim (Penal Code § 1524.1).

#### 1016.5.1 EXPOSURE FROM A NON-ARRESTEE

Upon notification of an employee's exposure to a person who was not arrested, the ECO should attempt to determine if the person who was the source of the exposure will voluntarily consent to testing. If consent is indicated, the following steps should be taken:

- (a) A licensed health care provider should notify the person to be tested of the exposure and make a good faith effort to obtain voluntary informed consent from the person or his/her authorized legal representative to perform a test for HIV, hepatitis B, hepatitis C and other communicable diseases the health care provider deems appropriate.
- (b) The voluntary informed consent obtained by the health care provider must be in writing and include consent for three specimens of blood for testing. The ECO should document the consent as a supplement to the Exposure Control Report.
- (c) The results of the tests should be made available to the source and the exposed employee.

If consent is not obtained, the ECO should promptly consult with City Attorney and consider requesting that a court order be sought for appropriate testing.

#### 1016.5.2 EXPOSURE FROM AN ARRESTEE

Upon notification of an exposure to an employee by a person who was arrested, the ECO should take the following steps:

- (a) Comply with the statutory scheme of Health and Safety Code § 121060. This includes seeking consent from the person who was the source of the exposure and seeking a court order if consent is not given.
- (b) Take reasonable steps to immediately contact the County Health Officer and provide preliminary information regarding the circumstances of the exposure and the status of the involved individuals to determine whether the County Health Officer will order testing (Penal Code § 7510).

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- (c) In all cases, comply with the reporting and testing scheme of Penal Code § 7510 et seq. This includes completing a State Department of Health Services Form CDPH 8479 and submitting it to the County Health Officer with a copy of the Exposure Control Report by the end of the employee's shift. If submission by the end of the shift is not practicable, it must occur as soon as possible but no later than two days after the incident. The exposed employee's name should not appear on this form.
- (d) Remain in contact with the County Health Officer to determine whether testing of the arrestee will occur and whether the testing satisfies the medical needs of the employee.
- (e) The results of the tests should be made available to the donor and the exposed employee.

Since there is potential for overlap between the two statutory schemes, the ECO is responsible for coordinating the testing with the County Health Officer to prevent unnecessary or duplicate testing.

In the rare event that the exposed employee is not covered by either statutory scheme, the ECO should seek consent or a court order in the same manner as for a non-arrestee.

#### **1016.6 RESPIRATORY PROTECTION PROGRAM**

##### 1016.6.1 PURPOSE AND SCOPE

The Palo Alto Police Department is committed to preventing injury and illness in the workplace and makes every effort to protect our employees from harmful airborne substances.

The Department has determined that employees may be exposed to certain airborne hazards like riot control agents and Tuberculosis during routine and emergency situations. The purpose of this program is to ensure that police employees are protected from exposure to respiratory hazards.

This general order establishes a respiratory protection program for police personnel. This program will comply with the California Code of Regulations, Title 8, § 5144, Respiratory Protection.

##### 1016.6.2 APPLICATION

This program applies to all police personnel who are required to wear respirators during normal work operations and during emergency situations.

Participation in this program is mandatory for all reserve officers, officers, agents, sergeants, and lieutenants. Any employee who voluntarily wears a respirator or filtering face piece, when a respirator is not required is subject to the medical evaluation, fit test, cleaning, maintenance, and storage elements of this program.

Employees participating in the respiratory protection program do so at no cost. The expense associated with the training, medical evaluations and respiratory protection equipment will be borne by the City of Palo Alto.

##### 1016.6.3 POLICY

Employees will use their respirators under conditions specified by this policy, and in accordance with the training they receive on the use of each model. In addition, the respirator shall not be used in a manner for which it is not certified by NIOSH or by its manufacturer.

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#### 1016.6.4 RESPONSIBILITIES

(a) **Program Administrator:** The Program Administrator is responsible for administering the respiratory protection program. The Safety Officer is the Program Administrator for the City of Palo Alto. Duties of the Program Administrator includes:

1. Evaluate respiratory hazards;
2. Arrange for qualitative fit testing using an accepted OSHA protocol;
3. Administer the medical surveillance program;
4. Maintain records required by the program;
5. Evaluate the program;
6. Update the written program, as needed;

(b) **Police Department Coordinator:** The Field Services Captain will assign one member of the Department to act as the Police Department's respiratory protection program coordinator. Duties of the Program Coordinator includes:

1. Purchase, maintain and inventory of respirators and filter canisters;
2. Coordinate with the Program Administrator on how to address respiratory hazards or other concerns regarding the program;
3. Ensure employees attend the required training;
4. Identify work areas and tasks that require workers to wear respirators;
5. Select respiratory protection options;
6. Ensure proper storage and maintenance of respiratory protection equipment;
7. Ensure that employees under their supervision (including new hires) have received the appropriate training, fit testing, and annual medical evaluation;
8. Ensure the availability of appropriate respirators and accessories;
9. Awareness of tasks requiring the use of respiratory protection;
10. Enforce the proper use of respiratory protection when necessary;
11. Ensure that respirators are properly cleaned, maintain, and stored according to manufacturers specifications;
12. Continually monitor work areas to identify respiratory hazards.

(c) **Employees:** It is the responsibility of the employee to have an awareness of the respiratory protection requirements for his or her work areas in accordance with the City's respiratory protection program. Employees are responsible for wearing the appropriate respiratory equipment according to instructions. Employees are also responsible to observe all factors



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and conditions required to demonstrate a good respirator fit and adequate face seal. Employees must also:

1. Care for and maintain respiratory protection equipment as instructed;
2. store respiratory protection equipment in a clean and sanitary location; I
3. Inform their supervisors, if the respirator no longer fits well and to request a new one that fits properly;
4. Inform their supervisor or the Program Administrator of any respiratory hazards that they feel is not adequately addressed in the workplace and of any concerns that they have regarding the program;

#### 1016.6.5 WORKPLACE EXPOSURE ASSESSMENT

The type of airborne hazards presented to police personnel occurs in situations where engineering controls are not feasible or adequate. Control of airborne hazards through employee's use of respirators will provide emergency protection against occasional and relatively brief exposures. The results of the current hazard evaluation have identified the following potential exposure risks:

- (a) Potential risk of exposure to CN and CS gas during enforcement and training. The Department utilizes both CN and CS gas. The gas can be delivered by shotgun grenades and via a 37mm launcher. The deployment of CN and CS gas is restricted to members of the Special Weapons and Tactics Team (SWAT); however, it is recognized that CN and CS gas can spread and affect other people in the area. Properly worn full-face purifying respirators are effective for protecting the eyes, nose, mouth, and throat from CN and CS gas.
- (b) Potential risk of exposure to OC spray during enforcement and training. The Department utilizes OC spray in MK-3 canisters for use by individual officers, and large area foggers are used by SWAT for crowd control. Properly worn full-face air purifying respirators are effective for protecting the eyes, nose, mouth, and throat from OC spray.
- (c) Potential risk of exposure to tuberculosis (TB) while interacting with individuals likely to be infected. The use of a one half face respirator has been shown to be effective in protecting the wearer from TB.

#### 1016.6.6 RESPIRATORY EQUIPMENT SELECTION AND USE

There are two different pieces of equipment that fall under the category of respirators that Palo Alto Police Department field employees shall be provided:

- (a) The first is a full-face air purifying respirator, commonly known as a gas mask, which will be the MSA Advantage 1000 or similar respirator. This full-face respirator is to be used to protect the employee from chemical agents such as CN and CS. The employee is advised that the full-face respirator is National Institute for Occupational Safety and Health (NIOSH) certified to protect against CN and CS, and is effective but not certified in protecting against OC, Sarin, Hydrogen Cyanide, and other chemicals. The respirator is not intended to protect against all Weapons of Mass Destruction type agents and does not supply its own oxygen.

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- (b) The second type of respirator supplied to field employees is the one half face N95 respirator. This respirator closely resembles a mesh surgical mask or dust mask and is intended to protect the employee against Tuberculosis (TB.) The one half face N95 respirator will be the 3M respirator or similar product. The one half face respirator is not designed to protect the wearer against chemical agents but rather is useful in protecting the wearer from contracting TB from a TB victim. These one half face respirators shall be kept in the patrol and CSO vehicle first aid kits. A field employee may retain extra one half face masks if they desire. The N95 filters exhaled air outside the mask so logically the mask would not be appropriate to place on a TB victim. The mask is instead only for use by the employee.

### 1016.6.7 REQUIREMENTS

Reserves, officers, agents, sergeants, and lieutenants will be issued air-purifying respirators. These employees are required to have their respirators available in the field when working uniformed assignments. One half face TB respirators will be kept in vehicle first aid kits.

Reserves, officers, agents, sergeants, and lieutenants should make every effort to wear their respirators in situations involving harmful exposures. It is recognized that in emergency situations, employees may be unable to obtain and don a respirator prior to deploying harmful agents such as CN, CS and OC. Employees should take appropriate action to avoid exposure. Respirators should be obtained and worn as soon as practical.

All respirators must be certified by NIOSH and shall be used in accordance with the terms of that certification. All filters, cartridges, and canisters must be labeled with the appropriate NIOSH approval label. The label must not be removed or defaced while it is in use.

Air-purifying respirators should not be used under the following conditions:

- (a) When contaminants have poor warning properties; that is, when the contaminant can not be recognized by taste, smell or irritation at or below the permissible exposure limits;
- (b) In oxygen-deficient atmospheres (below 19.5%);
- (c) In atmospheres Immediately Dangerous to Life or Health (IDLH); and
- (d) Atmospheres in which short exposures would cause death, injury or delayed reaction;

When there is a respirator selection question remember to refer to the Material Safety Data Sheet for the appropriate personal protective equipment.

### 1016.6.8 USER SEAL CHECK

All employees shall conduct user seal checks each time they wear their respirator. Employees shall use the positive and negative pressure check specified in this policy.

The individual who uses a tight-fitting respirator is to perform a user seal check to ensure that an adequate seal is achieved each time the respirator is put on.

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Either the positive and negative pressure checks listed in this policy, or the respirator manufacturer's recommended user seal check method shall be used. User seal checks are not substitutes for qualitative or quantitative fit tests.

#### 1016.6.9 FACE PIECE POSITIVE PRESSURE CHECK

Close off the exhalation valve and exhale gently into the face piece. The face fit is considered satisfactory if a slight positive pressure can be built up inside the face piece without any evidence of outward leakage of air at the seal.

For most respirators this method of leak testing requires the wearer to first remove the exhalation valve cover before closing off the exhalation valve and then carefully replacing it after the test.

#### 1016.6.10 FACE PIECE NEGATIVE PRESSURE CHECK

Close off the inlet opening of the canister or cartridge(s) by covering with the palm of the hand(s) or by replacing the filter seal(s), inhale gently so that the face piece collapses slightly, and hold the breath for ten seconds.

The design of the inlet opening of some cartridges cannot be effectively covered with the palm of the hand. The test can be performed by covering the inlet opening of the cartridge with a thin latex or nitrile glove. If the face piece remains in its slightly collapsed condition and no inward leakage of air is detected, the tightness of the respirator is considered satisfactory.

#### 1016.6.11 MANUFACTURER'S RECOMMENDED USER SEAL CHECK

The respirator manufacturer's recommended procedures for performing a user seal check may be used instead of the positive and/or negative pressure check procedures provided.

#### 1016.6.12 RESPIRATOR CLEANING PROCEDURES

These procedures are provided for employer/employee use when cleaning respirators. They are general in nature, and the employer/employee as an alternative may use the cleaning recommendations provided by the manufacturer of the respirators. The Department must ensure that the respirator is properly cleaned and disinfected in a manner that prevents damage to the respirator and does not cause harm to the user.

##### (a) CLEANING PROCEDURES:

1. Remove filters, cartridges, or canisters. Disassemble face-pieces by removing speaking diaphragms, demand and pressure-demand valve assemblies, hoses, or any components recommended by the manufacturer.
2. Discard or repair any defective parts.
3. Wash components in warm (43 deg. C [110 deg. F] maximum) water with a mild detergent or with a cleaner recommended by the manufacturer.
4. A stiff bristle (not wire) brush may be used to facilitate the removal of dirt.
5. Rinse components thoroughly in clean, warm (43 deg. C [110 deg. F] maximum), preferably running water. Drain.

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- (b) DISINFECTING-When the cleaner used does not contain a disinfecting agent, respirator components should be immersed for two minutes in one of the following:
1. Hypochlorite solution (50 ppm of chlorine) made by adding approximately one milliliter of laundry bleach to one liter of water at 43 deg. C (110 deg. F);
  2. Aqueous solution of iodine (50 ppm iodine) made by adding approximately 0.8 milliliters of tincture of iodine (6-8 grams ammonium and/or potassium iodide/100 cc of 45% alcohol) to one liter of water at 43 deg. C (110 deg. F);
  3. Other commercially available cleansers of equivalent disinfectant quality when used as directed, if their use is recommended or approved by the respirator manufacturer.
- (c) COMPLETION:
1. Rinse components thoroughly in clean, warm (43 deg. C [110 deg. F] maximum), preferably running water. Drain. The importance of thorough rinsing cannot be overemphasized. Detergents or disinfectants that dry on facepieces may result in dermatitis. In addition, some disinfectants may cause deterioration of rubber or corrosion of metal parts if not completely removed.
  2. Components should be hand-dried with a clean lint-free cloth or air-dried. Reassemble face piece, replacing filters, cartridges, and canisters where necessary.
  3. Test the respirator to ensure that all components work properly.

#### 1016.6.13 FILTER REPLACEMENT SCHEDULE

Filters will be stored in their sealed pouches until such time as an employee needs to deploy a respirator. Opened filters that have not been exposed to a hazardous substance will be replaced after 40 hours use. Opened filters that have been exposed, or that may have been exposed to a hazardous substance, will be replaced after 10 hours use.

SWAT officers who expose their filters to live chemical agents at yearly trainings shall discard the exposed filter after training and be issued a sealed new one.

Unopened filters will be replaced every two years.

#### 1016.6.14 MEDICAL AND FIT TESTING

Employees who are either required to wear respirators, or who choose to wear a respirator voluntarily, must pass a medical exam before being permitted to wear a respirator on the job. The POST pre-employment exam covering respiratory protection will satisfy this requirement. Those employees will also be required to undergo qualitative TBN95 mask fit testing and a quantitative fit test for the full face mask to ensure a proper seal against the face. Medical and fit tests will be conducted in accordance with the City's policy.

Respirators cannot be worn when conditions prevent a good seal between the face of the wearer and the seal area of the respirator. Facial hair, sideburns, moustaches, long hairlines, or bands can pass between the sealing surface of the face piece and the face thus interfering with the function

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of the respirator valve(s) causing leakage of air or preventing air from entering the face piece on demand. Moustaches, small sideburns, hair length, and "Van Dyke" type beards are acceptable if they are worn in a manner so as not to come between the skin and the sealing surfaces of the respirator. All affected employees must comply with these regulations. No exceptions will be made.

#### 1016.6.15 EMPLOYEE SAFETY

All employees will be permitted to leave the respirator use area to wash their face and respirator face piece as necessary to prevent irritation associated with respirator use; if they detect vapor or gas breakthrough; changes in breathing resistance; or leakage of the face piece. They may also leave to replace the respirator, cartridges, or canister elements.

## Smoking and Tobacco Use

### 1018.1 PURPOSE AND SCOPE

This policy establishes limitations on the use of tobacco products by employees and others while on-duty or while in Palo Alto Police Department facilities or vehicles.

### 1018.2 POLICY

The Palo Alto Police Department recognizes that tobacco use is a health risk and can be offensive to other employees and to the public. It is the policy of the Palo Alto Police Department to prohibit the use of tobacco by employees while on-duty or at any time the employee is acting in an official capacity for the Department.

### 1018.3 EMPLOYEE USE

Tobacco use by employees is prohibited anytime employees are in public view representing the Department.

Smoking and the use of other tobacco products is not permitted inside any City facility, office or vehicle (California Labor Code § 6404.5).

It shall be the responsibility of each employee to ensure that no person under his/her supervision smokes or uses any tobacco product inside City facilities and vehicles.

### 1018.4 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.).

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# Personnel Complaint Procedure

## 1020.1 PURPOSE AND SCOPE

The purpose of this procedure is to provide guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members and employees of this department.

### 1020.1.1 PERSONNEL COMPLAINTS DEFINED

Personnel complaints consist of any allegation of misconduct or improper job performance against any department employee that, if true, would constitute a violation of department policy, federal, state or local law.

Inquiries about employee conduct which, even if true, would not qualify as a personnel complaint may be handled informally by a department supervisor and shall not be considered complaints.

This policy shall not apply to any interrogation, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of an employee in the normal course of duty, by a supervisor or any other employee, nor shall this policy apply to an investigation concerned solely and directly with alleged criminal activities (Cal. Govt. Code 3303(i)).

Personnel Complaints shall be classified in one of the following categories:

**Informal** - A matter in which the complaining party is satisfied that appropriate action has been taken by a department supervisor of rank greater than the accused employee. Informal complaints need not be documented on a personnel complaint form and the responsible supervisor shall have the discretion to handle the complaint in any manner consistent with this policy.

**Formal** - A matter in which the complaining party requests further investigation or which a department supervisor determines that further action is warranted. Such complaints may be investigated by a department supervisor of rank greater than the accused employee or referred to the Internal Affairs Unit depending on the seriousness and complexity of the investigation.

**Incomplete** - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the Internal Affairs Unit, such matters need not be documented as personnel complaints, but may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

### 1020.1.2 INTERNAL AFFAIRS COMPLAINT INVESTIGATION GUIDELINES

For detailed information about complaint investigation refer to the Department Internal Affairs Complaint Investigation Guideline Manual.

## 1020.2 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

### 1020.2.1 SOURCE OF COMPLAINTS

- (a) A department employee becoming aware of alleged misconduct shall immediately notify a supervisor.

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- (b) A supervisor receiving a complaint from any source alleging misconduct of an employee which, if true, could result in disciplinary action.
- (c) Anonymous complaints and third party complaints should be accepted and investigated to the extent that sufficient information is provided.

### **1020.3 COMPLETION OF INVESTIGATIONS**

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation. In the event that an investigation cannot be completed within one year of discovery, the assigned investigator or supervisor shall ensure that an extension or delay is warranted within the exceptions set forth in Government Code § 3304(d) or Government Code § 3508.1. If the nature of the allegations dictate that confidentiality is necessary to maintain the integrity of the investigation, the involved employee(s) need not be notified of the pending investigation unless and until the employee is interviewed or formally charged within one year of discovery.

Upon completion, the report should be forwarded through the chain of command to the commanding officer of the involved employee(s).

Once received, the Chief of Police may accept or modify the classification and recommendation for disciplinary action contained in the report.

Within 30 days of the final review by the Chief of Police, written notice of the findings shall be sent to the complaining party. This notice shall indicate the findings, however, will not disclose the amount of discipline, if any imposed. The complaining party should also be provided with a copy of his/her own original complaint (Penal Code § 832.7).

Any complaining party who is not satisfied with the findings of the Department concerning their complaint may contact the Chief of Police to discuss the matter further.

#### **1020.3.1 CONFIDENTIALITY OF PERSONNEL FILES**

All investigations of personnel complaints, whether originating from a citizen or internally, shall be considered confidential peace officer personnel files. The contents of such files shall not be revealed to other than the involved employee or authorized personnel except pursuant to lawful process.

In the event that an accused employee (or the representative of such employee) knowingly makes false representations regarding any internal investigation and such false representations are communicated to any media source, the Department may disclose sufficient information from the employee's personnel file to refute such false representations (Penal Code § 832.5).

All sustained citizen's complaints shall be maintained for a period of at least five years (Penal Code § 832.5). All internally initiated complaints shall be maintained at least two years (Government Code § 34090 et seq.).



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Sustained complaints shall be maintained in the employee's personnel file. Complaints which are unfounded, exonerated or not sustained shall be maintained by the Internal Affairs Unit apart from the employee's personnel file.

#### **1020.4 IA PRO SOFTWARE EARLY IDENTIFICATION AND INTERVENTION SYSTEM**

##### 1020.4.1 PURPOSE AND SCOPE

The Palo Alto Police Department utilizes IA Pro software to track Internal Affairs Investigations and other statistical information. IA Pro is a management tool used to efficiently assign and monitor Internal Affairs investigations and to assist with an Early Identification and Intervention System, (EIIS). Additionally, IA Pro establishes "thresholds" to determine possible training needs of employees. The system is designed to be highly secure at the database level and at the application level with record level screening, feature access screening, mailbox screening, and tracking of users' actions into a background usage log.

EIIS is intended to be a "positive" approach so that supervisors and managers can address behavior before it results in discipline, lawsuits, injuries or other negative consequences. This systematic, proactive approach reflects the Palo Alto Police Department's commitment to integrity and ethics both internally and externally. EIIS also represents the Police Department's commitment to the welfare of all employees. This policy is intended to assist Police Department supervisors and managers in identifying employees whose performance may require review, training, counseling or other resources that might improve the employee's performance.

##### 1020.4.2 PROCEDURES

The Palo Alto Police Department has purchased and installed an IA-PRO software program. The Personnel and Training Unit will coordinate the administration, data entry and review of both the EIIS and the IA-PRO software. Information from IA-PRO and the EIIS system are considered confidential and will not be shared without proper authorization.

Employees will be allowed to review their own personal data by contacting the Personnel and Training Lieutenant to set up an appointment. Information will not be released to an outside source without a valid Pitchess Motion, Court Order, or lawful request. No copies of any IA-PRO screens will be placed in an officer's personnel file. Files will be purged from the IA-PRO system in accordance with the section 1026 of this manual.

##### 1020.4.3 EARLY INTERVENTION

The components of the EIIS include Performance Indicators; Identification and Selection; Intervention and Follow-up Monitoring.

##### 1020.4.4 PERFORMANCE INDICATORS

Performance indicators represent the category of employee performance activity that the Palo Alto Police Department has selected to monitor. Incidents used as indicators may include but are not limited to:

- Use of Force (Less Lethal and Deadly Force)

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- Vehicle Pursuits
- Citizens Complaints
- Commendations, Compliments and Awards (Citizen and Departmental)
- Claims and Civil Suits
- Canine Bites
- Internal Affairs Investigations
- Pitchess Motions
- District Attorney Case Rejections
- Accidental Discharges
- Worker's Compensation Claims
- Informal Inquiry Reports
- Accidents
- Sick Leave

### 1020.4.5 IDENTIFICATION AND SELECTION

Three (3) incidents in a twelve month period will result in an alert in the IAPRO Records Management System. The Personnel and Training Lieutenant will advise the affected employee's supervisor, manager, and Division Captain/Coordinator. This group will conduct a careful evaluation of any related documentation to determine if the employee's performance is problematic and requires intervention. A non-disciplinary interview with the employee may also be conducted. After a review, it may be determined that an intervention is not appropriate as the behavior did not require such.

### 1020.4.6 INTERVENTION

If intervention is determined to be the course of action, the employee's supervisor will be responsible for developing a plan. The plan will include specific examples of what performance requires improvement as well as the performance expectations. The plan will also identify the activities, support systems, and resources that will be provided to assist the employee. The supervisor will consult with the employee to obtain their input when developing the intervention plan. The supervisor and Division Captain/Coordinator will determine the amount of time that the intervention plan will be in place. The supervisor will provide the Division Captain/Coordinator with monthly updates on the employee's performance. Intervention may include but is not limited to training, counseling, departmental changes or voluntary re-assignments. Training options include, but are not limited to:

- Defensive Tactics
- Legal Updates (Search and Seizure)

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- Report Writing
- Anger Management
- Cultural Diversity
- Verbal Judo
- Driver/Pursuit Training
- Physical Fitness Training

Counseling options include, but are not limited to:

- Supervisor Coaching
- Supervisor Counseling
- Peer Counseling
- EAP Referral
- Referral to the Health Resources Coordinator
- Stress Reduction Training
- Critical Incident Stress Management
- Fitness for Duty

Departmental change options include, but are not limited to:

- Review/Modify Training
- Review/Modify Policy
- Equipment Purchase

Voluntary reassignment options include, but are not limited to:

- Temporary Voluntary Reassignment
- Voluntary Alternate Shift

### 1020.4.7 POST INTERVENTION MONITORING

Once the intervention plan has been completed, the supervisor and Division Captain/Coordinator will review the employee's performance on a quarterly basis to ensure that the plan has been successful.

## Seat Belts

### 1022.1 PURPOSE AND SCOPE

The use of seat belts and other safety restraints significantly reduces the chance of death or injury in case of a traffic collision. This policy establishes guidelines for seat belt and child safety seat use to promote maximum operator and passenger safety, thus reducing the possibility of death or injury as the result of a motor vehicle crash. This policy will apply to all employees operating or riding in department vehicles (Vehicle Code § 27315.5).

### 1022.2 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.

#### 1022.2.1 TRANSPORTING CHILDREN

Children under the age of 8 should be transported in compliance with California's restraint system requirements (Vehicle Code § 27360).

A child may be transported by sworn personnel without the use of a child passenger restraint system in an authorized emergency vehicle if a child passenger restraint system is unavailable and the child is secured by a seat belt (Vehicle Code § 27363(b) and Vehicle Code § 165).

Members should deactivate, if available, the passenger side airbag when appropriate, such as when transporting a rear-facing infant or child in the front seat.

### 1022.3 TRANSPORTING PRISONERS

Whenever possible, prisoners should be secured in the prisoner restraint system in the rear seat of the patrol vehicle or, when a prisoner restraint system is not available, by seat belts. The prisoner should be in seating position for which seat belts have been provided by the vehicle manufacturer. The prisoner restraint system is not intended to be a substitute for handcuffs or other appendage restraints.

### 1022.4 INOPERABLE SEAT BELTS

No person shall operate a department vehicle in which the seat belt in the driver's position is inoperable. No person shall be transported in a seating position in which the seat belt is inoperable.

No person shall modify, remove, deactivate or otherwise tamper with the vehicle safety belts, except for vehicle maintenance and repair staff who shall do so only with the express authorization of the Chief of Police.

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Employees 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.

## Body Armor

### 1024.1 PURPOSE AND SCOPE

The purpose of this policy is to provide law enforcement officers with guidelines for the proper use of body armor.

### 1024.2 POLICY

It is the policy of the Palo Alto Police Department to maximize officer safety through the use of body armor in combination with prescribed safety procedures. While body armor provides a significant level of protection, it is not a substitute for the observance of officer safety procedures.

### 1024.3 ISSUANCE OF BODY ARMOR

The Administrative Services supervisor shall ensure that body armor is issued to all officers when the officer begins service at the Palo Alto Police Department and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

The Administrative Services supervisor shall establish a body armor replacement schedule and ensure that replacement body armor is issued pursuant to the schedule or whenever the body armor becomes worn or damaged to the point that its effectiveness or functionality has been compromised.

#### 1024.3.1 USE OF SOFT BODY ARMOR

Generally, the use of body armor is required subject to the following:

- (a) Officers shall only wear agency-approved body armor.
- (b) The Department encourages all on-duty officers to wear soft body armor, but it is required for sworn personnel hired after January 1, 1999, whenever they are in uniform.
- (c) When officers are assigned to a SWAT operation, stakeout, service of felony arrest warrant(s), or, are serving a search warrant at a location where there is reason to believe a felony suspect may be present, the wearing of a body armor is mandatory. This requirement applies to all officers, whether in a uniform or plain clothes assigned.
- (d) Officers shall wear body armor anytime they are in a situation where they could reasonably be expected to take enforcement action.
- (e) Officers may be excused from wearing body armor when they are functioning primarily in an administrative or support capacity and could not reasonably be expected to take enforcement action.
- (f) Body armor shall be worn when an officer is working in uniform or taking part in Department range training.
- (g) An officer may be excused from wearing body armor when he/she is involved in undercover or plainclothes work that his/her supervisor determines could be compromised by wearing

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body armor, or when a supervisor determines that other circumstances make it inappropriate to mandate wearing body armor.

### 1024.3.2 INSPECTIONS OF BODY ARMOR

Supervisors should ensure that body armor is worn and maintained in accordance with this policy through routine observation and periodic documented inspections. Annual inspections of body armor should be conducted by an authorized designee for fit, cleanliness, and signs of damage, abuse and wear.

### 1024.3.3 CARE AND MAINTENANCE OF SOFT BODY ARMOR

Soft body armor should never be stored for any period of time in an area where environmental conditions (e.g., temperature, light, humidity) are not reasonably controlled (e.g., normal ambient room temperature/humidity conditions), such as in automobiles or automobile trunks.

Soft body armor should be cared for and cleaned pursuant to the manufacturer's care instructions provided with the soft body armor. The instructions can be found on labels located on the external surface of each ballistic panel. The carrier should also have a label that contains care instructions. Failure to follow these instructions may damage the ballistic performance capabilities of the armor. If care instructions for the soft body armor cannot be located, contact the manufacturer to request care instructions.

Soft body armor should not be exposed to any cleaning agents or methods not specifically recommended by the manufacturer, as noted on the armor panel label.

Soft body armor should be replaced in accordance with the manufacturer's recommended replacement schedule.

## **1024.4 RANGEMASTER RESPONSIBILITIES**

The Rangemaster should:

- (a) Monitor technological advances in the body armor industry for any appropriate changes to Department approved body armor.
- (b) Assess weapons and ammunition currently in use and the suitability of approved body armor to protect against those threats.
- (c) Provide training that educates officers about the safety benefits of wearing body armor.

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## Peace Officer Personnel Files

### 1026.1 PURPOSE AND SCOPE

This section governs the maintenance, retention and access to peace officer personnel files in accordance with established law. It is the policy of this department to maintain the confidentiality of peace officer personnel records pursuant to Penal Code § 832.7.

### 1026.2 PERSONNEL FILES DEFINED

Pursuant to Penal Code § 832.8, peace officer personnel records shall include any file maintained under an individual officer's name relating to:

- (a) Personal data, including marital status, family members, educational and employment history, or similar information.
- (b) Medical history including medical leave of absence forms, fitness for duty examinations, workers compensation records, medical releases and all other records which reveal an employee's past, current or anticipated future medical conditions.
- (c) Election of employee benefits.
- (d) Employee advancement, appraisal, or discipline.
- (e) Complaints, or investigations of complaints, concerning an event or transaction in which the officer participated, or which the officer perceived, and pertaining to the manner in which the officer performed official duties.
- (f) Any other information the disclosure of which would constitute an unwarranted invasion of personal privacy.

### 1026.3 EMPLOYEE RECORD LOCATIONS

Employee records will generally be maintained in any of the following:

**Official File** - that file which is maintained in the Human Resources Department as the "official" permanent record of the employee's employment with the Department.

**Department File** - that file which is maintained in the office of the Police Chief as a record of an employee's employment with this Department. This file mirrors that of the official file.

**Division File** - any file which is separately maintained internally by an employee's supervisor(s) within an assigned division for the purpose of completing timely performance evaluations. This file contains any written comment, excluding actual performance evaluations, made by a Department supervisor concerning the conduct of an employee of this Department.

**Training File** - any file which documents the training records of an employee.

**Internal Affairs File** - those files that contain complaints of employee alleged misconduct and all materials relating to the investigation into such allegations, regardless of disposition.



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**IA Pro Computer Management System** all files contained in this system shall be stored on the designated server and maintained by the Personnel and Training Unit.

**Medical File** - That file which is maintained separately that exclusively contains material relating to an employee's medical history.

#### **1026.4 CONFIDENTIALITY OF ALL PERSONNEL FILES**

Pursuant to Penal Code § 832.7, all of the above-defined personnel records shall be deemed confidential and shall not be subject to disclosure except pursuant to the discovery procedures set forth in Evidence Code § 1043, et seq. or in accordance with applicable federal discovery laws. Nothing in this section is intended to preclude review of personnel files by the City Manager, City Attorney or other attorneys or representatives of the City in connection with official business.

#### **1026.5 REQUESTS FOR DISCLOSURE**

Only written requests for the disclosure of any information contained in any peace officer personnel record will be considered. Since the format of such requests may be strictly governed by law with specific responses required, all such requests shall be promptly brought to the attention of the Watch Commander, the Custodian of Records or other person charged with the maintenance of such records.

Upon receipt of any such request, the responsible person shall notify the affected employee(s) as soon as practicable that such a request has been made (Evidence Code § 1043(a)).

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this will require assistance of approved and available legal counsel.

All requests for disclosure, which result in access to an employee's personnel file(s), shall be logged in the corresponding file.

##### **1026.5.1 RELEASE OF CONFIDENTIAL INFORMATION**

Except as provided by this policy or pursuant to lawful process, no information contained in any confidential peace officer personnel file shall be disclosed to any unauthorized person(s) without the expressed prior consent of the involved officer or written authorization of the Chief of Police or his or her designee.

Any person who maliciously, and with the intent to obstruct justice or the due administration of the laws, publishes, disseminates, or otherwise discloses the residence address or telephone number of any member of this department may be guilty of a misdemeanor (Penal Code § 146e).

Pursuant to Penal Code § 832.7(e), the disposition of any citizen's complaint shall be released to the complaining party within 30 days of the final disposition. This release shall be limited to the disposition and shall not include what discipline, if any was imposed.

The Department may also release any factual information concerning a disciplinary investigation if the officer who is the subject of the investigation (or the officer's representative) publicly makes

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a statement which is published in the media and which the officer (or representative) knew to be false. The disclosure of such information, if any, shall be limited to facts that refute any such false statement (Penal Code § 832.7(d)).

#### **1026.6 EMPLOYEE ACCESS TO OWN FILE**

Any employee may request access to his/her own personnel file(s) during the normal business hours of the individual(s) responsible for maintaining such file(s). Any employee seeking the removal of any item from his/her personnel file shall file a written request to the Chief of Police through the chain of command. The Department shall thereafter remove any such item if appropriate or within 30 days provide the employee with a written explanation why the contested item will not be removed (Government Code 3306.5). If the contested item is not removed from the file, the employee's request and the department's written response shall be retained with the contested item in the employee's personnel file.

Employees may be restricted from accessing files containing any of the following information:

- (a) Ongoing Internal affairs investigations to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the employee of the intent to discipline;
- (b) Confidential portions of Internal Affairs files which have not been sustained against the employee;
- (c) Background information, letters of recommendation, test results and promotional assessments.

#### **1026.7 TYPES OF PERSONNEL FILES**

Peace officer personnel files can be located in any of the following places:

##### **1026.7.1 DEPARTMENT FILE**

The Department file should contain, but is not limited to, the following:

- (a) Performance evaluation reports regularly completed by appropriate supervisor and signed by the affected employee shall be permanently maintained.
- (b) Records of all training (original or photocopies of available certificates, transcripts, diplomas and other documentation) and education shall be maintained.
  - 1. It shall be the responsibility of the involved employee to provide the Personnel and Training Lieutenant or immediate supervisor with evidence of completed training/education in a timely manner.
  - 2. The Personnel and Training Lieutenant or supervisor shall ensure that copies of such training records are placed in the employee's department file.
- (c) Disciplinary action:

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1. Disciplinary action resulting from sustained internally initiated complaints or observation of misconduct shall be maintained in the individual employee's department file at least two years (Government Code § 34090).
  2. Disciplinary action resulting from a sustained citizen's complaint shall be maintained in the individual employee's department file at least five years (Penal Code § 832.5).
  3. Investigations of complaints which result in a finding of not-sustained, unfounded or exonerated shall not be placed in the employee's department file, but will be separately maintained for the appropriate retention period in the internal affairs file.
- (d) Adverse comments such as supervisor log entries may be retained in the department file or division file after the employee has had the opportunity to read and initial the comment and for a period up to two years (Government Code § 3305).
1. Once an employee has had an opportunity to read and initial any adverse comment prior to entry into a file, the employee shall be given the opportunity to respond in writing to such adverse comment within 30 days (Government Code § 3306).
  2. Any such employee response shall be attached to and retained with the original adverse comment.
  3. If an employee refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original comment. Such a refusal, however, shall not be deemed insubordination nor shall it prohibit the entry of the adverse comment into the employee's file.
- (e) Commendations shall be retained in the employee's department file, with a copy provided to the involved employee.
- (f) Personnel Action Reports reflecting assignments, promotions and other changes in the employee's employment status shall be permanently retained.
- (g) A photograph of the employee shall be permanently retained.

#### 1026.7.2 DIVISION FILE

The Division File should contain, but is not limited to, the following:

- (a) Supervisor log entries, notices to correct and other materials intended to serve as a foundation for the completion of timely Performance Evaluations
1. All materials intended for this interim file shall be provided to the employee prior to being placed in the file in accordance with Government Code §§ 3305 and 3306.
  2. Duplicate copies of items that will also be included in the employee's department file may be placed in this interim file in anticipation of completing any upcoming performance evaluation.

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3. Once the permanent performance evaluation form has been made final, the underlying foundational material(s) and/or duplicate copies may be purged in accordance with this policy.

- (b) All rules of confidentiality and disclosure shall apply equally to the division file.

#### 1026.7.3 INTERNAL AFFAIRS FILE

Internal affairs files shall be maintained under the exclusive control of the Personnel & Training Division in conjunction with the office of the Chief of Police. Access to these files may only be approved by the Chief of Police or the Manager of the Personnel & Training Division. These files shall contain:

- (a) The complete investigation of all formal complaints of employee misconduct, regardless of disposition
  1. Each investigation file shall be sequentially numbered within a calendar year (e.g., C2010-001, C2010-002).
  2. Each investigation file arising out of a formal citizen's complaint or a complaint involving a discriminatory harassment or hostile work environment shall be maintained no less than five years (Penal Code § 832.5(b)). Investigation files arising out of other internally generated complaints shall be maintained no less than two years (Government Code § 34090).
- (b) Investigations that result in other than a sustained finding shall be maintained for the minimum statutory period but may not be used by the Department to adversely affect an employee's career (Penal Code § 832.5 (c)).

#### 1026.7.4 TRAINING FILES

An individual training file shall be maintained by the Personnel and Training Unit for each employee. Training files will contain records of all training and education mandated by law or the Department, including firearms qualifications and mandated annual proficiency requalification.

- (a) It shall be the responsibility of the involved employee to provide the Personnel and Training Lieutenant or immediate supervisor with evidence of completed training/education in a timely manner.
- (b) The Personnel and Training Lieutenant or supervisor shall ensure that copies of such training records are placed in the employee's training file.

#### 1026.7.5 MEDICAL FILE

A medical file shall be maintained separately from all other files and shall contain all documents relating to the employee's medical condition and history, including but not limited to the following:

- (a) Materials relating to medical leaves of absence.

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- (b) Documents relating to workers compensation claims or receipt of short or long term disability benefits.
- (c) Fitness for duty examinations, psychological and physical examinations, follow-up inquiries and related documents.
- (d) Medical release forms, doctor's slips and attendance records which reveal an employee's medical condition.
- (e) Any other documents or material which reveals the employee's medical history or medical condition, including past, present, or future anticipated mental, psychological, or physical limitations.

#### **1026.8 PURGING OF FILES**

Formal citizen complaints and all related files not pending litigation or other ongoing legal proceedings may be purged no sooner than five years from the underlying complaint date (Penal Code § 832.5).

All other disciplinary files and investigations of non-citizen initiated complaints not pending litigation or other ongoing legal proceedings may be purged no sooner than two years from the underlying complaint date (Government Code § 34090; Government Code § 26202).

- (a) Each supervisor responsible for completing the employee's performance evaluation shall also determine whether any prior sustained disciplinary file should be retained beyond the statutory period for reasons other than pending litigation or other ongoing legal proceedings.
- (b) If a supervisor determines that records of prior discipline should be retained beyond the applicable statutory period, approval for such retention shall be obtained through the chain of command from the Chief of Police.
- (c) During the preparation of each employee's performance evaluation, all complaints and discipline should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development. If, in the opinion of the Chief of Police, a complaint or disciplinary action beyond the statutory retention period is no longer relevant, all records of such matter may be destroyed pursuant to resolution.

#### **1026.8.1 PURGING OF AN EMPLOYEE'S DISCIPLINARY FILE**

For employees of SEIU, refer to Article VI, Section 3 of the Memorandum of Agreement for further information. All other employees may request that disciplinary actions be sealed according to the following schedule:

- (a) Written reprimands with no recurrence after one (1) year;
- (b) Disciplinary probation after three (3) years from implementation of such probation if no other disciplinary action has occurred during that period;
- (c) Suspensions of more than three (3) days but less than six (6) days, after three (3) years;
- (d) Suspensions of six (6) days or more, after five (5) years.

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A written request for the purging of disciplinary actions or sustained citizen complaints should be directed to the Personnel and Training Lieutenant.

#### 1026.8.2 SUSTAINED CITIZEN COMPLAINTS

Although they may not be purged, sustained citizen complaints with no disciplinary action may be removed from the personnel file after one year with no recurrence. The entire complaint investigation will be refilled with original complaint file.

#### 1026.8.3 CITY HUMAN RESOURCES DEPARTMENT

The City Human Resources Department shall be notified in all cases where purging of disciplinary action is taken. Human Resources Department copies of the disciplinary action will also be purged in a manner consistent with the Police Department's action.

## Employee Commendations

### 1030.1 PURPOSE AND SCOPE

Special recognition may be in order whenever an employee performs his/her duties in an exemplary manner. This procedure provides general guidelines for the commending of exceptional employee performance.

### 1030.2 WHO MAY MAKE COMMENDATIONS

A written commendation may be made by any supervisor regarding any other employee of the Department, provided the reporting person is superior in rank or is the person-in-charge of the individual being commended. Additionally, investigating officers may commend uniformed officers for exceptional assistance in investigative functions, with approval from the investigator's supervisor. Any employee may recommend a commendation to the supervisor of the employee subject to commendation.

### 1030.3 COMMENDABLE ACTIONS

A meritorious or commendable act by an employee of this department may include, but is not limited to, the following:

- Superior handling of a difficult situation by an employee
- Conspicuous bravery or outstanding performance by any employee of the Department
- Any action or performance that is above and beyond the typical duties of an employee

### 1030.4 POLICY

The Department is a service-oriented organization. Yet, the nature of the services which we provide to the community often involve intense danger, emotions, stress, and complexity. Therefore, when personnel succeed in providing our services under such circumstances, it is the policy of the Department to recognize them for their efforts. The following guidelines are established to assist supervisors and managers in commending personnel.

Supervisors and managers will use the following classifications and guidelines for issuing commendations to officers.

#### 1030.4.1 LEVEL ONE - COMMENDATION OF VALOR

(a) A commendation of valor shall be considered when an employee:

1. Engages in an act of true valor or heroism;
2. Acted above and beyond the call of duty, an action definitely not required by the job; and/or
3. Exposed self to hazards or imminent danger beyond the call of duty without acting recklessly.

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### *Employee Commendations*

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(b) Procedure for Commendation of Valor

1. Endorsed by the Division Captain or Coordinator and the Police Chief;
2. Issued on parchment paper with blue border;
3. Posted on Department bulletin boards;
4. Routed to other Divisions for posting on their bulletin boards;
5. Acknowledged at all watch and Division briefings;
6. Police Chief presents original commendation to employee at special awards ceremony;
7. Commendation signed by Supervisor, Watch Commander, Division Captain or Coordinator, Assistant Police Chief, and Police Chief; and
8. Copy placed in employee's personnel file.

#### 1030.4.2 LEVEL TWO - NOTICE OF MERIT

(a) A notice of merit commendation shall be considered when an employee:

1. Made a correct decision with very limited information in a dangerous or high-risk situation;
2. Conducted tenacious follow-through to successful conclusion in a high-risk, dangerous or extremely complicated case;
3. Was subjected to direct hazard that could not be avoided to complete his or her duties; and/or
4. Was involved in a life-saving or life-threatening situation involving severe hazard to the employee.

(b) Procedure for Notice of Merit

1. Endorsed by the Division Captain or Coordinator and the Police Chief;
2. Issued on bond paper with raised gold City of Palo Alto heading;
3. Posted on Department bulletin boards;
4. Signed by Supervisor, Watch Commander, Division Captain or Coordinator, Assistant Police Chief, and Police Chief;
5. Copy of commendation placed in personnel file;
6. Original presented to employee at their watch or Division briefing by the Division Captain or Coordinator; and
7. Acknowledged at all briefings.



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### *Employee Commendations*

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#### 1030.4.3 LEVEL THREE - NOTICE OF ACHIEVEMENT

- (a) A notice of achievement commendation shall be considered when an employee:
1. Performs routine work, but completed under unusual or out of the ordinary circumstances;
  2. Showed special persistence or initiative;
  3. Coordination of varied resources to solve case;
  4. Showed creativity with limited information;
  5. Showed initiative while off-duty;
  6. Excellent observation and follow-up to a successful conclusion;
  7. Shows truly professional behavior by employee;
  8. Excellent decision in unusual circumstances; and/or
  9. A Notice of Achievement shall be issued in all situations involving the saving of a life.
- (b) Procedure for Notice of Achievement
1. Endorsed by supervisor and the Watch Commander;
  2. Issued on bond paper with flat gold City of Palo Alto heading;
  3. Signed by issuing supervisor and Watch Commander;
  4. Posted on bulletin board;
  5. Copy placed in employee's personnel file;
  6. Original notice given to employee at their watch or Division briefing; and
  7. Read at briefing.

#### 1030.4.4 LEVEL FOUR - NOTICE OF RECOGNITION

- (a) A notice of recognition commendation shall be considered when an employee:
1. Performs excellent work, but within job description;
  2. Does good investigation and casework resulting in a successful conclusion; and/or
  3. Makes a significant improvement in job performance.
- (b) Procedure for Notice of Recognition
1. Verbal or written (memo) recognition given directly to employee or given publicly at briefing by supervisor or the Watch Commander;
  2. Recognition will not be entered in personnel file; and
  3. Watch Commander will be notified.

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#### 1030.4.5 OUTSIDE COMMENDATIONS

Employee recognition by citizens via letter, personal contact, or phone calls shall be handled in the following manner:

- (a) Division Captain or Coordinator will review all citizen communications concerning their personnel and determine if they should be considered by the Division staff as a formal commendation;
- (b) If not considered as a formal commendation, the communication will be given to the appropriate Watch Commander, who will give it to the appropriate employee;
- (c) If the communication is written, a copy will also be placed in the employee's personnel file;
- (d) Citizen communications will be posted on bulletin boards in each Division or distributed to all employees via e-mail; and
- (e) If the communication is considered a formal commendation, the appropriate procedure as outlined above will be followed.

## Fitness for Duty

### 1032.1 PURPOSE AND SCOPE

All officers are required to be free from any physical, emotional, or mental condition which might adversely affect the exercise of peace officer powers. The purpose of this policy is to ensure that all officers of this department remain fit for duty and able to perform their job functions (Government Code § 1031).

### 1032.2 EMPLOYEE RESPONSIBILITIES

- (a) It shall be the responsibility of each member of this department to maintain good physical condition sufficient to safely and properly perform essential duties of their position.
- (b) Each member of this department shall perform his/her respective duties without physical, emotional, and/or mental constraints.
- (c) During working hours, all employees are required to be alert, attentive, and capable of performing his/her assigned responsibilities.
- (d) Any employee who feels unable to perform his/her duties shall promptly notify a supervisor. In the event that an employee believes that another employee is unable to perform his/her duties, such observations and/or belief shall be promptly reported to a supervisor.

### 1032.3 SUPERVISOR RESPONSIBILITIES

- (a) A supervisor observing an employee, or receiving a report of an employee who is perceived to be, unable to safely perform his/her duties due to a physical or mental condition shall take prompt and appropriate action in an effort to resolve the situation.
- (b) Whenever feasible, the supervisor should attempt to ascertain the reason or source of the problem and in all cases a preliminary evaluation should be made in an effort to determine the level of inability of the employee to perform his/her duties.
- (c) In the event the employee appears to be in need of immediate medical or psychiatric treatment, all reasonable efforts should be made to provide such care.
- (d) In conjunction with the Watch Commander or employee's available Division Captain, a determination should be made whether or not the employee should be temporarily relieved from his/her duties.
- (e) The Chief of Police shall be promptly notified in the event that any employee is relieved from duty.

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### **1032.4 NON-WORK RELATED CONDITIONS**

Any employee suffering from a non-work related condition which warrants a temporary relief from duty may be required to use sick leave or other paid time off (PTO) in order to obtain medical treatment or other reasonable rest period.

### **1032.5 WORK RELATED CONDITIONS**

Any employee suffering from a work related condition which warrants a temporary relief from duty shall be required to comply with personnel rules and guidelines for processing such claims.

Upon the recommendation of the Watch Commander or unit supervisor and concurrence of a Division Captain, any employee whose actions or use of force in an official capacity result in death or serious injury to another may be temporarily removed from regularly assigned duties and/or placed on paid administrative leave for the wellbeing of the employee and until such time as the following may be completed:

- (a) A preliminary determination that the employee's conduct appears to be in compliance with policy and, if appropriate.
- (b) The employee has had the opportunity to receive necessary counseling and/or psychological clearance to return to full duty.

### **1032.6 PHYSICAL AND PSYCHOLOGICAL EXAMINATIONS**

- (a) Whenever circumstances reasonably indicate that an employee is unfit for duty, the Chief of Police may serve that employee with a written order to undergo a physical and/or psychological examination in cooperation with Personnel and Training to determine the level of the employee's fitness for duty. The order shall indicate the date, time and place for the examination.
- (b) The examining physician or therapist will provide the Department with a report indicating that the employee is either fit for duty or, if not, listing any functional limitations which limit the employee's ability to perform job duties (Civil Code § 56.10 (c)(8)(A)). If the employee places his/her condition at issue in any subsequent or related administrative action/grievance, the examining physician or therapist may be required to disclose any and all information which is relevant to such proceeding (Civil Code § 56.10(c)(8)(B)).
- (c) In order to facilitate the examination of any employee, the Department will provide all appropriate documents and available information to assist in the evaluation and/or treatment.
- (d) All reports and evaluations submitted by the treating physician or therapist shall be part of the employee's confidential personnel file.
- (e) Any employee ordered to receive a fitness for duty examination shall comply with the terms of the order and cooperate fully with the examining physician or therapist regarding any clinical interview, tests administered or other procedures as directed. Any failure to comply

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with such an order and any failure to cooperate with the examining physician or therapist may be deemed insubordination and shall be subject to discipline up to and including termination.

- (f) Once an employee has been deemed fit for duty by the examining physician or therapist, the employee will be notified to resume his/her duties.

### **1032.7 LIMITATION ON HOURS WORKED**

Absent emergency operations members should not work more than:

- 16 hours in one day (24 hour) period or
- 30 hours in any 2 day (48 hour) period or
- 84 hours in any 7 day (168 hour) period

Except in very limited circumstances members should have a minimum of 8 hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve to off-duty status any member who has exceeded the above guidelines.

Limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, training, general overtime and any other work assignments.

### **1032.8 APPEALS**

An employee who is separated from paid employment or receives a reduction in salary resulting from a fitness for duty examination shall be entitled to an administrative appeal as outlined in the Conduct Policy.

## Sleeping Quarters

### 1033.1 PURPOSE AND SCOPE

The Palo Alto Fire Department has partnered with the Palo Alto Police Department to allow the use of Palo Alto Fire Department Station 8, located at Foothills Park, to be used by Police Department members as sleeping quarters before/after on-duty days with short shift turnarounds.

### 1033.2 POLICY AND PROCEDURE

The following rules shall apply to any person using this station:

- City personnel may use the station as sleeping quarters during short shift-to-shift turnarounds, or court appearances that occur within close proximity to work shifts before/after on-duty days only.
- Use of the station sleeping quarters must be approved by the on-duty Watch Commander.
- City personnel must keep the premises in a clean and serviceable condition after use.
- The facility must be secured and locked after use with the access key returned to its original location at the PD station.
- City personnel may not allow non-city personnel access or use of the facility
- The facility is not to be used as a social gathering location for non-sleeping purposes.
- Department rules of conduct apply to all personnel using this facility.
- Any damage or problem with the facility should be immediately reported to the on-duty Battalion Chief.

## Meal Periods and Breaks

### 1034.1 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.

#### 1034.1.1 MEAL PERIODS

Sworn employees and dispatchers shall remain on duty 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 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. No more than three uniformed officers should be in the same food establishment without prior supervisory approval.

The time spent for the meal period shall not exceed the authorized time allowed.

#### 1034.1.2 15 MINUTE BREAKS

Each employee is entitled to a 15 minute break, near the mid point, for each four-hour work period. Only one 15 minute break shall be taken during each four hours of duty.

Employees normally assigned to the facility shall remain in the facility for their breaks. This would not prohibit them from taking a break outside the facility if on official business.

Field will take their breaks in the City, subject to call and shall monitor their radios.

## Lactation Break Policy

### 1035.1 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).

### 1035.2 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).

### 1035.3 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.

### 1035.4 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.



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### **1035.5 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.

## Time Card Procedures

### 1036.1 PURPOSE AND SCOPE

Payroll records are submitted to Administrative Services on a bi-weekly basis for the payment of wages.

#### 1036.1.1 RESPONSIBILITY FOR COMPLETION OF PAYROLL RECORDS

Employees are responsible for the accurate and timely submission of payroll records for the payment of wages.

#### 1036.1.2 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 Administrative Services no later than 8:00 a.m. on the Wednesday morning before the end of the pay period, unless specified otherwise.

## Overtime

### 1038.1 PURPOSE AND SCOPE

It is the policy of the Department to compensate non-exempt salaried employees who work authorized overtime either by payment of wages as agreed and in effect through the Memorandum of Agreement (MOA), or by the allowance of accrual of compensatory time off. In order to qualify for either, the employee must complete and submit a Request for Overtime Payment as soon as practical after overtime is worked.

#### 1038.1.1 DEPARTMENT POLICY

Because of the nature of police work, and the specific needs of the Department, a degree of flexibility concerning overtime policies must be maintained.

Non-exempt employees are not authorized to volunteer work time to the Department. All requests to work overtime shall be approved in advance by a supervisor. If circumstances do not permit prior approval, then approval shall be sought as soon as practical during the overtime shift and in no case later than the end of shift in which the overtime is worked.

Short periods of work at the end of the normal duty day (e.g., less than one hour in duration) may be handled unofficially between the supervisor and the employee by flexing a subsequent shift schedule to compensate for the time worked rather than by submitting requests for overtime payments. If the supervisor authorizes or directs the employee to complete a form for such a period, the employee shall comply.

The individual employee may request compensatory time in lieu of receiving overtime payment, however, the employee may not exceed 80 hours of compensatory time each annual quarter. At the end of each quarter, employees may be paid for hours accumulated over 80 hours or have the time "rolled over" into their vacation accrual as per each employee's Memorandum of Agreement (MOA).

### 1038.2 TYPES OF OVERTIME

Patrol lieutenants shall have the ultimate responsibility of managing their personnel and staffing levels in the Field Services Division. While there are numerous circumstances that may cause patrol officers to be away from work, patrol sergeants and lieutenants shall follow this policy when evaluating personnel needs and overtime. For the purposes of this policy, the titles of "Patrol Lieutenant" and Watch Commander are synonymous.

#### 1038.2.1 UNPLANNED OVERTIME

Examples of unplanned overtime include but are not limited to officers calling in sick, court appearances, personal business leave, bereavement leave, administrative leave or other personal emergencies. The Watch Commander, or supervisor if the Watch Commander is unavailable, is responsible for identifying the overtime needs and authorizing the assignment.

Any unplanned patrol overtime, as defined in the MOA, may be filled by the following procedure:

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- (a) The Watch Commander may first request that an on-duty officer/agent/sergeant volunteer to extend their current patrol shift for minimum staffing purposes;
- (b) The Watch Commander may request that an officer/agent/sergeant from the next team coming on-duty volunteer to come in early for minimum staffing purposes;
- (c) If an officer cannot stay beyond their shift or come in early, the Watch Commander will utilize the unplanned overtime list; and/or
- (d) The Watch Commander may choose to order an employee to stay over or come in early to meet minimum staffing needs.

At the conclusion of an unplanned overtime shift, overtime forms shall be reviewed and signed by the on-duty supervisor. The Watch Commander will eventually view the electronic entry of the overtime hours on the SAP system.

#### 1038.2.2 PLANNED OVERTIME

For the purposes of minimum staffing, any planned overtime shall be identified and authorized by the Watch Commander. Planned overtime shall be posted by the 20th of the preceding month. The specific hours to be worked shall be determined by the Watch Commander based on minimum staffing requirements and the team schedule requiring overtime needs. Planned overtime patrol shifts shall not be for less than six (6) hours.

At the conclusion of a planned overtime shift, overtime forms shall be reviewed and signed by the on-duty supervisor. The Watch Commander will eventually view the electronic entry of the overtime hours on the SAP system.

#### 1038.2.3 REPORT WRITING/FOLLOW-UP

It is essential officers complete their reports in a timely manner. Officers are frequently required to stay beyond their designated shift to conduct follow-up and/or complete a police report.

Reports for in-custody cases shall be completed prior to the end of an officer's shift. Officers shall notify the on-duty supervisor of the need to stay beyond their shift. For in-custody cases when the officer is working the next day and that day is a weekend or holiday, the supervisor may direct the officer to complete their follow-up and/or report the following day.

The on-duty supervisor may authorize officers to stay beyond their shift to complete follow-up and/or report writing on non-custodial cases when there are exigent circumstances surrounding the case.

At the conclusion of the overtime worked, overtime forms shall be reviewed and signed by the the on-duty supervisor. The Watch Commander will eventually view the electronic entry of the overtime hours on the SAP system.

#### 1038.2.4 TRAINING OVERTIME PROCEDURE

Officers are often required to attend training as prescribed by POST and/or Department guidelines. All training must have prior approval by the Watch Commander. When authorizing training, Watch

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Commanders shall consider whether the training is state-mandated, Department-mandated, or non-mandatory. The Personnel and Training Unit maintains a detailed list of mandatory and non-mandatory training. Watch Commanders shall give the highest consideration to state-mandated training and may authorize Department-mandated and non-mandatory training after evaluating the affects on staffing, overtime and personal development.

- (a) Watch Commanders shall follow the below guidelines when authorizing training:
  - 1. Watch Commanders will make every attempt to adjust officers off the patrol schedule when authorizing training. If adjusting an officer off the schedule requires overtime for minimum staffing purposes, the Watch Commander may choose to authorize overtime for the training day in lieu of adjusting them off the schedule.
  - 2. When officers on the 4/11 patrol schedule attend training on their day off, they shall use training bank hours prior to receiving overtime. Officers shall check with their supervisor or Watch Commander to ensure they only use the allotted amount of training bank hours in each 28-day FLSA cycle.
- (b) Officers assigned to the 4/11 patrol schedule will work 182 eleven-hour patrol shifts during the fiscal year for a total of 2002 hours. The number of hours required to complete 26 pay periods, or one year of full-time work, is 2080. The remaining 78 hours will be made up during the year through designated training days and flexible training time. If an employee has not used all of their flexible training hours by the end of the shift year, he or she will be required to make up the difference by working extra/partial shifts or by using vacation, compensatory or holiday time.
- (c) Watch Commanders shall monitor the use of flexible training hours by their employees. Watch Commanders shall:
  - 1. Review all submitted training bank forms to ensure employees do not submit more than 17 hours of training bank usage in any 28-day FLSA cycle.
  - 2. Evaluate the training bank folders on a weekly basis. As needed, Watch Commanders will work with employees to schedule extra patrol shifts and/or additional training to ensure they meet their required flexible training hours.

#### 1038.2.5 FIELD TRAINING PROGRAM

The lieutenant in charge of the Field Training Program may authorize overtime for the Field Training Officers and other personnel if additional training is necessary for the professional development of the officers in the Field Training Program.

#### 1038.2.6 COURT OVERTIME

Officers are frequently required to attend court. Officers should notify the Watch Commander or supervisor of the court appearance and submit the overtime form to the Watch Commander for authorization. Sworn officers appearing in court for the State of California will be compensated per the MOA.

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#### 1038.2.7 MAJOR INCIDENT OVERTIME

The Police Chief, Assistant Police Chief, Division Captains or Coordinators and/or Watch Commanders may authorize overtime in the event of a major incident. On-duty supervisors may authorize overtime in the event of exigent circumstances when the above-authorized people are not available.

#### 1038.2.8 SPECIAL EVENT OVERTIME

The Watch Commander and/or Special Events supervisor may authorize overtime for special events. On-duty supervisors may authorize overtime in the event of exigent circumstances when the above-authorized people are not available.

#### 1038.2.9 COMMUNICATIONS OVERTIME

Qualified officers working overtime in Communications shall follow the overtime procedures contained within the Communications Overtime Policy Section §1.24. The Communications Manager or his or her designee may authorize overtime in Communications.

#### 1038.2.10 SPECIALIZED TEAM MEETINGS

There are approximately fifteen part-time specialty teams within the Department. The Lieutenants of each specialty team may authorize overtime for meetings. The Lieutenants should ensure the meetings are necessary and relevant and should follow the same guidelines as described in Policy Manual §1038.24.

#### 1038.2.11 MISCELLANEOUS OVERTIME

Any overtime needs not covered under any of the previous sections may be authorized by the Watch Commander.

### **1038.3 REQUEST FOR OVERTIME PAYMENT FORMS**

Employees shall submit all overtime forms for verification by their immediate supervisor or the on-duty supervisor. The Watch Commander will eventually view the electronic entry of the overtime hours on the SAP system. Failure to submit an overtime form in a timely manner may result in a denial of compensation.

- (a) **EMPLOYEE RESPONSIBILITY** - Employees shall complete the overtime forms immediately after working the overtime and turn them in to the on-duty supervisor for approval. Employees submitting overtime forms for on-call pay when off-duty shall submit the forms to the on-duty supervisor on the first day after returning for work. The Watch Commander will eventually view the electronic entry of the overtime hours on the SAP system.
- (b) **SUPERVISOR RESPONSIBILITY** - The supervisor who verifies the overtime earned shall verify that the overtime was worked before approving the request. The Watch Commander will eventually view the electronic entry of the overtime hours on the SAP system.

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- (c) **DIVISION Captain/COORDINATOR RESPONSIBILITY** - The Division Captain or Coordinator, after approving payment, will then forward the form to the Police Chief for review.

### **1038.4 ACCOUNTING FOR OVERTIME WORKED**

Employees are to record the actual time worked in an overtime status. In some cases, the Memorandum of Agreement provides that minimum times will be paid (e.g. two hour-minimum for court, four hour-minimum for outside overtime). The supervisor will enter the actual time worked.

#### **1038.4.1 ACCOUNTING FOR PORTIONS OF AN HOUR**

Partial hours of overtime worked are to be accounted for in quarters of an hour. One quarter is equivalent to fifteen minutes as indicated by the following chart.

#### TIME WORKED INDICATE ON CARD

1- 15 minutes 1/4 hour

16- 30 minutes 1/2 hour

31- 45 minutes 3/4 hour

46- 60 minutes 1 hour

#### **1038.4.2 VARIATION IN TIME REPORTED**

Where two or more employees are assigned to the same activity, case, or court trial and the amount of time for which payment is requested varies from that reported by the other officer, the Watch Commander or other approving supervisor may require each employee to include the reason for the variation on the back of the overtime form.

### **1038.5 INVESTIGATIVE SERVICES DIVISION OVERTIME**

All overtime, unless during an emergency, will be pre-approved by a sergeant in the Investigative Services Division.

#### **1038.5.1 AUTHORIZED INVESTIGATIVE SERVICES DIVISION OVERTIME**

As a matter of policy, overtime will be kept to a minimum. Overtime will only be considered in the following circumstances:

- (a) The crime being investigated has life-threatening possibilities if follow-up is not immediately conducted;
- (b) Case completion/preparation is required to meet a court-mandated schedule;
- (c) When requested by patrol and approved by an Investigative Services Division sergeant.

#### **1038.5.2 AFTER-HOURS INVESTIGATIVE SERVICES DIVISION OVERTIME**

When an Investigative Services Division sergeant is contacted during non-business hours and his or her personnel are requested, the following guidelines should be followed:

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- (a) If the request involves a property crime, the following circumstances must exist for the Investigative Services Division sergeant to call in off-duty detectives:
1. A suspect is in custody; or
  2. The location of a suspect is known, the location is in another jurisdiction, and the suspect needs to be arrested immediately.

The Investigative Services Division sergeant will assign two detectives to respond and assess what needs to be accomplished. If additional resources are required, the detectives will obtain authorization from their sergeant.

If the request involves a sexual assault or robbery, the Investigative Services Division sergeant will assign two detectives. If the request involves a homicide, the Investigative Services Division sergeant will assign as many detectives as he or she feels are required.

The Investigative Services Division Captain will be apprised of all sexual assaults, robberies and homicides.

#### 1038.5.3 MISCELLANEOUS INVESTIGATIVE SERVICES DIVISION OVERTIME

- (a) Overtime may be required to complete an on-going investigation where evidence or property could be lost if not immediately located. Overtime also may be required in order to apprehend a suspect in a timely fashion. In these situations, the overtime should be authorized if the Investigative Services Division sergeant believes the property recovered or the evidence sought is of great enough value to justify the overtime expenditure.
- (b) All Department-mandated training will be completed during scheduled duty time. Overtime will NOT be used for training unless approved in advance by an Investigative Services Division sergeant or the Investigative Services Division Captain.
- (c) Any overtime worked by Investigative Services Division personnel will not exceed the 16-hour rule without approval of a supervisor. This includes overtime worked in other Divisions. Additionally, a detective should inform his or her Investigative Services Division sergeant that they are scheduled to work overtime in another Division.
- (d) An Investigative Services Division sergeant shall approve any other situation that requires overtime prior to its use.

Qualified Investigative Services Division officers working overtime in Communications shall follow the Communications Overtime Policy §1.24. The Communications Manager or his or her designee may authorize overtime in Communications.

#### 1038.6 COMMUNICATIONS OVERTIME POLICY

The full staffing of Communications is essential to provide for the safety of the public. Communications will schedule overtime to provide for full staffing. If the overtime cannot be filled on a voluntary basis, employees will be selected to work mandatory overtime. One



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Communications lead dispatcher is the overtime scheduler. Overtime hours will be reflected in red on the Calendar Flow Chart.

#### 1038.6.1 COMMUNICATIONS PERSONNEL OVERTIME SIGN-UPS

The Calendar Flow Chart will include open shifts that must be filled by overtime due to approved vacations, sick leave, personal leave, and other time off.

Requests for approval of vacations, sick leave, personal leave, and other time off will be forwarded to the Communications lead dispatcher handling scheduling responsibilities via e-mail correspondence.

To sign up for an overtime shift, the employee will place his or her name and the hours of the shift to be worked on the appropriate line next to the overtime reflected on the Calendar Flow Chart. At that point, those hours of the shift are considered filled.

The lead dispatcher or a Communications manager will review the signups for overtime at least weekly to ensure adequate staffing levels are met.

Seniority "bumps" will be permitted up to one week prior to the overtime date. To "bump" a less-senior employee, the employee will write his or her name on the Flow Chart and notify the employee who has been bumped of the canceled overtime.

Any dispatcher or lead dispatcher who wishes to sign up for a full shift may "bump" any overtime by an employee who has signed up for a partial shift.

Any hours that are normally scheduled to include "night time differential" (1800-0800 hours) that are not worked due to a shift slide to eliminate overtime hours shall still be paid to the employee who would have received the night time differential had the employee not slid his or her shift.

The amount of hours worked during a shift slide that eliminate overtime shall be credited on the Overtime Accrual List for the overtime hours the employee eliminated by the shift slide, even when no additional hours are worked than were originally scheduled.

Sign-ups for overtime may not be canceled less than 10 days from the date of the overtime. With the exception of exigent circumstances, it is the responsibility of the employee to fill any overtime hours the employee cancels within this 10-day frame.

#### 1038.6.2 PER DIEM OVERTIME SIGN-UPS

Overtime is considered available for sign-up by per diem personnel on a "first come, first served" basis. Sworn Department personnel working as Communications per diem dispatchers are subject to being "bumped" by dispatchers or lead dispatchers up to two weeks prior to the date of the overtime. The per diem seniority recall list shall prevail for overtime needed within an immediate time frame.

#### 1038.6.3 MANDATORY OVERTIME

Every effort shall be made to fill overtime shifts by providing sufficient notifications for voluntary sign-ups. In the event that overtime is not been filled on a voluntary basis, a Communications

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manager, on-duty lead dispatcher, or the senior on-duty dispatcher mandate Communications personnel for an overtime assignment to ensure adequate staffing levels have been met.

Mandatory overtime shall be ordered for any overtime not scheduled one week prior to the shift and will be assigned based on the following factors:

- (a) Usage of overtime during the previous 30-day period;
- (b) Efficiency in extending shifts of on-duty dispatchers;
- (c) Whether the shift is full or partial;
- (d) Hardship or other extenuating circumstances;
- (e) Pre-planned time off;
- (f) Separation between shifts (10-hour minimum).

#### 1038.6.4 NOTIFICATION

- (a) All dispatchers shall maintain a telephone where the dispatcher may be notified in an emergency or for the purpose of assignment of mandatory overtime or cancellation of approved time off. It is the responsibility of the dispatcher to provide means of notification in the event of an emergency. Employees changing their residence addresses and/or telephone numbers shall immediately notify the lead dispatcher or the Communications manager of the changes in writing, in addition to notifying the Personnel and Training Unit as provided in Policy Manual §1011.
- (b) Dispatchers who maintain voice mail, pager, or home e-mail services may provide this information to Communications management in the event of an emergency or for the notification of mandatory overtime or cancellation of approved time off. The responsibility to be reached in the event of an emergency or for mandatory overtime or cancellation of approved time off includes the responsibility of responding to telephone messages, pages, and e-mails.
- (c) A dispatcher who is notified in an emergency or for the purpose of assignment of mandatory overtime or cancellation of approved time off shall respond to the on-duty lead dispatcher upon being notified. Failure to respond in a timely manner may result in disciplinary action.
- (d) The Communications manager, lead dispatcher, on-duty senior dispatcher assigning mandatory overtime will contact the employees required to perform mandatory overtime by notification using the following means:
  1. Telephone;
    - (a) If no response within a reasonable time, pager; and/or
    - (b) If no response within a reasonable time, telephone message machine or voice mail; and/or
    - (c) If no response within a reasonable time, e-mail.

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Once the Communications manager, lead dispatcher, or on-duty senior dispatcher assigning mandatory overtime filled the overtime, he or she will update the Calendar Flow Chart with the assigned staffing.

Repeated failure of an employee to respond to efforts to notify the employee in the event of an emergency or for mandatory overtime or cancellation of approved time off may result in disciplinary action.

#### 1038.6.5 MONTHLY OVERTIME LOG

The monthly Overtime Log shall be maintained by the lead dispatcher handling scheduling responsibilities, or in his or her absence, a Communications manager, in the Flow Chart Binder and will indicate the cumulative total of overtime worked from the previous month up to the current date for each employee.

- (a) The employee who has worked the least amount of overtime (regardless of rank) shall be mandated to work the overtime. That employee's availability due to scheduling constraints will be considered.
- (b) In the event that the overtime accrual for the Communications employees who have worked the least amount of overtime is the same or the Overtime Accrual Log does not reflect the overtime hours of previous month(s), the employee with the least amount of seniority shall be mandated to work the overtime.

#### 1038.6.6 OVERTIME MEALS

The Palo Alto Communications Policies and Procedures Manual §1.46 provides for overtime meals and states:

The Communications Unit will provide meals to employees in an emergency situation involving real or potential loss of service or personal danger:

- (a) When an employee is called back and is on-duty for a period of three consecutive hours, and thereafter at intervals of five hours, but not more than six hours, until the continuous overtime assignment ends.
- (b) When an employee is held over on-duty so that his or her overtime assignment extends two hours after shift end, and thereafter at intervals of five hours, but not more than six hours, until the continuous overtime assignment ends.
- (c) When an employee is called out two hours or more before a regularly scheduled shift. The employee will be entitled to two meals, the second meal to be consumed on the employee's own time.
- (d) When recalled two hours or less after the end of a regular shift, unless assigned to standby.

Communications will provide meals to employees in non-emergency situations where the assignment extends two hours after the end of the regular or overtime shift and at five-hour intervals thereafter. This policy only applies when an employee is held over, either on a voluntary or mandated basis, on-duty beyond a scheduled regular or overtime shift. If, due to working

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conditions, Communications is unable to provide a meal to which an employee is entitled, he or she has the option of receiving one hour of overtime compensation instead.

#### **1038.7 ANIMAL SERVICES DIVISION OVERTIME POLICY**

Either the Animal Services Division Superintendent or the Animal Services Division Supervisor must approve all overtime worked by any Animal Services Division employee.

## Outside Employment

### 1040.1 PURPOSE AND SCOPE

In order to avoid actual or perceived conflicts of interest for departmental employees engaging in outside employment, all employees shall obtain written approval from the Chief of Police prior to engaging in any outside employment. Approval of outside employment shall be at the discretion of the Chief of Police in accordance with the provisions of this policy and the City of Palo Alto Merit System Rules and Regulations § 1302.

Unless otherwise indicated, when a person accepts employment with the City of Palo Alto, it is assumed that the City of Palo Alto employment is to be his/her primary job. If the person undertakes outside employment, such work is assumed to be secondary in importance and the employee is subject to recall back to the City of Palo Alto at any time at the discretion of the Chief of Police.

#### 1040.1.1 DEFINITIONS

**Outside Employment** - Any member of this department who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with this department for services, product(s) or benefits rendered. For purposes of this section, the definition of outside employment includes those employees who are self-employed and not affiliated directly with this department for services, product(s) or benefits rendered.

**Outside Overtime** - Any member of this department who performs duties or services on behalf of an outside organization, company, or individual within this jurisdiction. Such outside overtime shall be requested and scheduled directly through this department so that the Department may be reimbursed for the cost of wages and benefits.

### 1040.2 OBTAINING APPROVAL

No member of this department may engage in any outside employment without first obtaining prior written approval of the Chief of Police. Failure to obtain prior written approval for outside employment or engaging in outside employment prohibited by this policy may lead to disciplinary action.

In order to obtain approval for outside employment, the employee must complete an Outside Employment Application which shall be submitted to the employee's immediate supervisor. The application will then be forwarded through channels to the Chief of Police for consideration.

If approved, the employee will be provided with a copy of the approved permit. Unless otherwise indicated in writing on the approved permit, a permit will be valid through the end of the fiscal year in which the permit is approved. The permit must be renewed during July of each year and at any time when there is a change in the status or time demands of the outside employment. Any employee seeking to renew a permit shall submit a new Outside Employment Application during July of each year.

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Any violation of the conditions of the approved outside employment permit will result in revocation of the permit.

Any employee seeking approval of outside employment, whose request has been denied, shall be provided with a written reason for the denial of the application at the time of the denial (Penal Code § 70(e)(3)).

The City of Palo Alto will not be responsible for Worker's Compensation related to injuries or illnesses sustained in the course of outside employment. Such injuries or illnesses may require medical restriction of City employment and/or revocation of outside employment approval.

#### 1040.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT

If an employee's Outside Employment Application is denied or withdrawn by the Department, the employee may file a written notice of appeal to the Chief of Police within ten days of the date of denial.

If the employee's appeal is denied, the employee may file a grievance pursuant to the procedure set forth in the current Memorandum of Understanding (MOU).

#### 1040.2.2 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT PERMITS

Any outside employment permit may be revoked or suspended under the following circumstances:

- (a) Should an employee's performance at this department decline to a point where it is evaluated by a supervisor as needing improvement to reach an overall level of competency, the Chief of Police may, at his or her discretion, revoke any previously approved outside employment permit(s). That revocation will stand until the employee's performance has been reestablished at a satisfactory level and his/her supervisor recommends reinstatement of the outside employment permit
- (b) Suspension or revocation of a previously approved outside employment permit may be included as a term or condition of sustained discipline
- (c) If, at any time during the term of a valid outside employment permit, an employee's conduct or outside employment conflicts with the provisions of department policy, the permit may be suspended or revoked
- (d) When an employee is unable to perform at a full duty capacity due to an injury or other condition, any previously approved outside employment permit may be subject to similar restrictions as those applicable to the employee's full time duties until the employee has returned to a full duty status

#### 1040.3 PROHIBITED OUTSIDE EMPLOYMENT

Consistent with the provisions of Government Code § 1126, the Department expressly reserves the right to deny any Outside Employment Application submitted by an employee seeking to engage in any activity which:

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- (a) Involves the employee's use of departmental time, facilities, equipment or supplies, the use of the Department badge, uniform, prestige or influence for private gain or advantage
- (b) Involves the employee's receipt or acceptance of any money or other consideration from anyone other than this department for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course or hours of employment or as a part of the employee's duties as a member of this department
- (c) Involves the performance of an act in other than the employee's capacity as a member of this department that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other employee of this department
- (d) Involves time demands that would render performance of the employee's duties for this department less efficient

#### 1040.3.1 OUTSIDE SECURITY AND PEACE OFFICER EMPLOYMENT

Consistent with the provisions of Penal Code § 70, and because it would further create a potential conflict of interest, no member of this department may engage in any outside or secondary employment as a private security guard, private investigator or other similar private security position, without expressed written consent.

Any private organization, entity or individual seeking special services for security or traffic control from members of this department must submit a written request to the Chief of Police in advance of the desired service. Such outside extra duty overtime assignments will be assigned, monitored and paid through the Department.

- (a) The applicant will be required to enter into an indemnification agreement prior to approval.
- (b) The applicant will further be required to provide for the compensation and full benefits of all employees requested for such outside security services.
- (c) Should such a request be approved, any employee working outside overtime shall be subject to the following conditions:
  - 1. The officer(s) shall be subject to the rules and regulations of this department.
  - 2. No officer may engage in such outside employment during or at the site of a strike, lockout, picket, or other physical demonstration of a labor dispute.
  - 3. Compensation for such approved outside security services shall be pursuant to normal overtime procedures.
  - 4. Outside security services shall not be subject to the collective bargaining process.
  - 5. No officer may engage in outside employment as a peace officer for any other public agency without prior written authorization of the Chief of Police.

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### 1040.3.2 OUTSIDE OVERTIME ARREST AND REPORTING PROCEDURE

Any employee making an arrest or taking other official police action while working in an approved outside overtime/employment assignment shall be required to complete all related reports in a timely manner pursuant to department policy, unless otherwise approved by the Chief of Police or his/her designee. Time spent on the completion of such reports shall be considered incidental to the outside overtime/employment assignment.

### **1040.4 DEPARTMENT RESOURCES**

Employees are prohibited from using any department equipment or resources in the course of or for the benefit of any outside employment unless expressly approved by the Chief of Police or his/her designee. Officers are prohibited from accessing official records or databases of this department or other agencies through the use of the employee's position with this department.

#### 1040.4.1 REVIEW OF FINANCIAL RECORDS

Employees approved for outside employment expressly agree that their personal financial records may be requested and reviewed/audited for potential conflict of interest (Government Code § 3308; Government Code § 1126). Prior to providing written approval for an outside employment position, the Department may request that an employee provide his/her personal financial records for review/audit in order to determine whether a conflict of interest exists. Failure of the employee to provide the requested personal financial records could result in denial of the off-duty work permit. If, after approving a request for an outside employment position, the Department becomes concerned that a conflict of interest exists based on a financial reason, the Department may request that the employee provide his/her personal financial records for review/audit. If the employee elects not to provide the requested records, his/her off-duty work permit may be revoked pursuant to § 1040.2.2(c) of this policy.

### **1040.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS**

If an employee terminates his or her outside employment during the period of a valid permit, the employee shall promptly submit written notification of such termination to the Chief of Police through channels. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Employees shall also promptly submit in writing to the Chief of Police any material changes in outside employment including any change in the number of hours, type of duties, or demands of any approved outside employment. Employees who are uncertain whether a change in outside employment is material are advised to report the change.

### **1040.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY**

Department members engaged in outside employment who are placed on disability leave or modified/light-duty shall inform their immediate supervisor in writing within five days whether or not they intend to continue to engage in such outside employment while on such leave or light-duty status. The immediate supervisor shall review the duties of the outside employment along



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with any related doctor's orders, and make a recommendation to the Chief of Police whether such outside employment should continue.

In the event the Chief of Police determines that the outside employment should be discontinued or if the employee fails to promptly notify his/her supervisor of his/her intentions regarding their work permit, a notice of revocation of the member's permit will be forwarded to the involved employee, and a copy attached to the original work permit.

Criteria for revoking the outside employment permit include, but are not limited to, the following:

- (a) The outside employment is medically detrimental to the total recovery of the disabled member, as indicated by the City's professional medical advisors.
- (b) The outside employment performed requires the same or similar physical ability, as would be required of an on-duty member.
- (c) The employee's failure to make timely notice of their intentions to their supervisor.

When the disabled member returns to full duty with the Palo Alto Police Department, a request (in writing) may be made to the Chief of Police to restore the permit.

## On Duty Injuries

### 1042.1 PURPOSE AND SCOPE

The purpose of this policy is to provide for the reporting of on-duty injuries, occupational illnesses, or deaths to Risk Management, to ensure proper medical attention is received, and document the circumstances of the incident.

### 1042.2 WORKER'S COMPENSATION FUND REPORTS

#### 1042.2.1 INJURIES REQUIRING MEDICAL CARE

All work related injuries and work related illnesses requiring medical care must be reported to the Risk Management Office and the Personnel and Training Unit Lieutenant. A claim form shall be provided to the injured employee within 24 hours from the time the injury was discovered, excluding weekends and holidays.

#### 1042.2.2 ACCIDENT DEFINED

Labor Code § 5400 makes failure to comply with the 24-hour reporting procedure a misdemeanor. Additionally, disciplinary action may be taken for an employee's failure to comply with this procedure.

#### 1042.2.3 EMPLOYEE'S RESPONSIBILITY

Any employee sustaining any work-related injury or illness, as well as any employee who is involved in any accident while on duty shall report such injury, illness or accident as soon as practical to his/her supervisor.

Any employee observing or learning of a potentially hazardous condition is to promptly report the condition to his/her immediate supervisor.

Any employee sustaining a work-related injury or illness that requires relief from duty is required to be examined/treated by a doctor.

Any employee sustaining a work-related injury or illness that requires relief from duty is also required to comply with departmental policies and directives relating to the duty to periodically call in during absences, as well as the duty to notify the Department of any change in condition or anticipated duration of the absence.

When appropriate, an employee being treated for an on-duty injury should inform the attending physician that a modified duty assignment may be available at the Department. Limited-service duty may be available for the employees whose injuries prevent resumption of regular duties.

An injured employee or employee who has suffered a work-related illness shall report as soon as practical to his/her immediate supervisor the medical findings concerning the injury and the extent and duration of any work restrictions if they are known. In addition, such employees are required to promptly submit all medical releases, whether partial or full releases, to their supervisor.

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#### 1042.2.4 SUPERVISOR'S RESPONSIBILITY

A supervisor learning of any work-related injury or accident shall promptly prepare the appropriate forms contained in the injury packets located in the sergeant's offices. The packets include the following:

- (a) A summary of the procedure for on-duty injuries;
- (b) State of California, Employee's Claim for Worker's Compensation Benefits DWC-1 Form;
- (c) Authorization to Release Medical Records and Information Form;
- (d) State of California, Employer's Report of Occupational Injury or Illness Form 5020;
- (e) Sample of an injury documentation/investigation;
- (f) City of Palo Alto Worker's Compensation Procedures memo;
- (g) Pre-designated Physician Form (Post-01/01/05 injuries are subject to the employer's managed network).

These forms shall be completed and forwarded to the Personnel and Training Unit Lieutenant within 24 hours of the notification of the injury.

#### 1042.2.5 DIVISION CAPTAIN RESPONSIBILITY

The Personnel and Training Unit Lieutenant shall review and forward copies of the report to the City's Risk Manager. A copy of the report shall be retained in the employee's medical file.

#### **1042.3 INJURY NOT REQUIRING MEDICAL ATTENTION**

Those injuries and illnesses not requiring medical attention shall be recorded on a Supervisor's Report of Injury form. This form shall be completed and signed by a supervisor.

This form shall be signed by the affected employee, indicating that he/she desired no medical attention at the time of the report. By signing this form, the employee will not preclude his/her ability to seek medical attention later.

#### **1042.4 SETTLEMENT OF INJURY CLAIMS**

Employees that sustain minor to moderate injuries during business hours (between Monday and Friday, 0730-1700 hours) should be taken to Workforce Medical Center, 201 Arch Street, Redwood City (650) 556-9420.

Employees who sustain injuries of a more serious nature, or any injuries that require medical attention after hours, should be taken to the Stanford Hospital Emergency Room for treatment.

An employee may choose to be treated by their pre-designated physician if the employee has a pre-designated physician form on file prior to the date of the injury. However, prior to receiving treatment, the employee must notify their immediate supervisor or the Personnel and Training Unit.

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### **1042.5 RETURNING TO WORK**

When the employee is cleared to return to work by their treating physician, the employee must provide the Personnel and Training Unit Lieutenant with a note signed by the physician. The note should indicate if the employee can return to full duty or modified duty and if any limitations exist.

If an employee returns to work in a "modified duty" capacity, he or she shall report to the Personnel and Training Unit Lieutenant. The employee may then be re-assigned to another Division depending on their work restrictions and the needs of the Department.

While on modified duty, an employee will not take any enforcement action or engage in activity that might result in a re-injury. While on modified duty, the employee will attend all appointments related to their injury and take any prescribed medications. Every 60 days, the employee on modified duty shall submit an updated note from their physician describing their status to the Personnel and Training Unit Lieutenant.

There will not be any permanent modified duty assignments within the Department.

### **1042.6 SETTLEMENT OF INJURY CLAIMS**

Occasionally, an employee's work-related injury results from the negligent or wrongful acts of another, for which the employee, the City, and/or other insurers are entitled to recover civilly. To ensure that the City's interests are protected and that the employee has the benefit of the City's experience in these matters, the following procedure is to be followed:

#### **1042.6.1 EMPLOYEE TO REPORT INITIAL CONTACTS**

When an employee sustains work-related injuries caused by another person, and is then approached by such person or an agent, insurance company or attorney, and offered a settlement of claims, that employee shall take no action other than to make a written report of this contact to his or her supervisor as soon as possible.

#### **1042.6.2 NO SETTLEMENT WITHOUT PRIOR APPROVAL**

In no case shall the employee accept a settlement without receiving prior approval from the Police Chief. It must first be determined that the offered settlement will not affect any claim the City of Palo Alto may have regarding payment for damage(s) to equipment or reimbursement for wages against the person who caused the accident or injury. The objective of this policy is to protect the City's right of subrogation, while ensuring that the employee's rights to receive compensation for injuries are not affected.

### **1042.7 DEPARTMENTAL RESPONSE TO SERIOUS INJURY OR DEATH OF A MEMBER**

The purpose of this policy is to outline the Department's response to the serious injury or death of a Department member, retiree or other law enforcement member. Notification responsibility, assignments and funeral protocol is included.

The Department recognizes that this is a very difficult time for the family and the Department as a whole. Every effort will be made to assist the family as much as possible. The extent of our participation will depend on the wishes of the family and the resources available.

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#### 1042.7.1 DEFINITIONS

**Active Member Injury, Illness or Death in the Line-of-Duty:** A member of the Department who is actively employed or in an authorized volunteer service, who suffers a serious or fatal injury or illness while taking any action that the member is authorized or obligated to perform by law, rule, regulation, or condition of employment or service.

**Active Member Injury, Illness, or Death not in the Line-of-Duty:** A member of the Department who is actively employed or in an authorized volunteer service, who suffers a serious or fatal illness while off-duty and which is non-police related.

**Retired Member Death:** The death of a retired member who is in good standing and fully separated through retirement from the Department.

(a) A retiree is defined as:

1. Any sworn or non-sworn member who resigns having completed at least 20 years of service, regardless of age; oR
2. Any sworn or non-sworn member who resigns and who is eligible to begin receiving pension benefits; or
3. Any former sworn or non-sworn member who is receiving from the City disabilities pension.

#### 1042.7.2 SERIOUS INJURY OR DEATH NOTIFICATION WITHIN THE DEPARTMENT

(a) When a member is seriously injured, killed or dies while working, the Watch Commander will:

1. Notify immediately notify the Chief of Police and Command Staff;
2. Notify members of the Family Support Team as identified by the Chief of Police,

(b) When a member is seriously injured, killed or dies while off duty, and the death is not duty related, the Watch Commander will:

1. Immediately notify the Chief of Police and members of the Command Staff;
2. Notify members of the Family Support Team as identified by the Chief of Police.

(c) When a member is killed or dies whether on or off duty, the Division Captain:

1. Will be responsible for having the member's police issued equipment and personal belongings collected and inventoried;
2. Will insure that the member's personal belongings are delivered to the spouse, significant other, parents, nearest responsible relative or executor of the estate.

When a member is killed or dies while working, the Technical Services Coordinator, with the Chief's approval, will send a Teletype concerning the incident to the other law enforcement agencies. When funeral arrangements are set, this information will also be transmitted.

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#### 1042.7.3 NOTIFICATION OF FAMILY MEMBERS

The following are the general procedures regarding notification of deaths and life-threatening injuries. In all situations where a member of the Department is seriously or fatally injured, the family members and their needs should be given prime consideration.

The name of the seriously or fatally injured member shall not be released to the media before the family members are notified.

If the family members live outside the area, and having a Palo Alto Police representative make the personal notification would cause an unreasonable delay, the ranking officer on duty shall request a prompt and personal notification from the jurisdictional law enforcement agency in the area in which the family lives.

If the Department is requested by another law enforcement agency to perform a personal notification of a serious injury or death of one of their members to a family member living in Palo Alto, the same courtesy and procedures shall be afforded to the agency as that which would be done for our own Department.

#### 1042.7.4 NOTIFICATION TEAM COMPOSITION AND RESPONSIBILITIES

The notification team should be made up of the Chief of Police, the employee's immediate supervisor, and an officer known by the injured employee's family (if possible). Consideration should be given to arranging for childcare in the event the spouse or significant other will be going to the hospital.

Employees outside the official notification team are prohibited from making contact with family members prior to official notification. Employees should caution their family members against contacting the family members prior to the official notification.

Prior to arrival of the notification team, accurate and up-to-date information should be secured. The notification team's goal should be to make a timely notification before Family members learn through other means.

#### 1042.7.5 RESPONSE TO A LIFE THREATENING INJURY, ILLNESS OR DEATH SUFFERED IN THE LINE OF DUTY

When a member of the Department suffers a life threatening injury or illness or is killed in the line of duty, the following will be provided for the Family members:

- (a) Personal notification of family members residing nearby;
- (b) Notification by local jurisdiction if the family member lives outside the area;
- (c) Transportation to the medical facility or other location for local family members;
- (d) Security for the family member and/or their home if deemed necessary by the Chief of Police;
- (e) Family Support Team member's available 24 hours per day;
- (f) Any other requests for additional support for the family (transportation, lodging, financial) must be made through the Family Support Team and approved by the Chief;

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- (g) These supportive measures will be provided from the time of the serious injury until the member's life is no longer threatened, or, in the event of death, 24 hours after the committal services;
- (h) The above-listed supportive measures will also apply to situations where the injured employee is hospitalized outside the area. The Chief of Police will determine what supportive measures are appropriate;
- (i) In the event an employee is killed in the line of duty outside the area, the Family Support Team member or their designee will go to the location where the employee was killed to handle the logistical details and provide an escort for the remains.

#### 1042.7.6 POLICE FAMILY SUPPORT TEAM

The Police Family Support Team will consist of the following personnel:

- (a) Executive Liaison - The Captain of the Division the member was assigned to;
- (b) Family Liaison Officer - an officer designated by the family and agreed upon by the Department, who coordinates the wishes of the family and the activities of the family Support Team, This includes making arrangements for travel and lodging for family members. The Chief of Police must first approve any financial commitment for these expenses;
- (c) Benefits Coordinator - The Personnel and Training Lieutenant will be responsible for coordinating all benefits for which the member and his/her family are eligible;
- (d) Press Information Officer - The Chief of Police will designate the PIO. The PIO will coordinate all press releases and arrange for media coverage of any funeral services;
- (e) Traffic Coordinator - The Lieutenant in charge of the Traffic Division will be responsible for coordinating and conducting any and all movements of vehicles involved in a funeral operation. This includes arranging for traffic control at intersections;
- (f) Honor Guard Coordinator - A Department representative will be in charge of either assembling an Honor Guard comprised of officers closest to the deceased or request for assistance from an outside agency.

The Police Family Support Team will be activated at the direction of the Chief of Police. Upon activation, a notice will be posted on the bulletin board listing the names of the Team and their responsibilities. The Police Family Support Team will also provide the Department with any needed communication regarding the funeral operation. When activated, the members of the Police Family Support Team will contact the Executive Liaison on a daily basis to provide an update.

#### 1042.7.7 FULL DEPARTMENT HONORS

Full Departmental Honors are the rendering of honors at the funeral of a member of the Department who died in the line-of-duty. The following Full Departmental Honors will be rendered, upon approval of the family:

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- (a) Request will be made to the City Manager for the City of Palo Alto flag to be flown at half-staff for three (3) consecutive days from the day of death, in accordance with the City "Funeral Attendance and Flag Half-Staffing Policy";
- (b) All members of the Department with badges will place a black sash or ribbon on it. The sash is to be worn horizontally across the badge;
- (c) An Honor Guard representative may be assigned to the funeral parlor during viewing times at the discretion of the Chief of Police;
- (d) A United States burial flag will be provided to drape the casket;
- (e) Colors will be conducted by the Honor Guard at the committal service;
- (f) Flag folding ceremonies will be conducted by the Honor Guard at the committal service;
- (g) The flag will be presented to the family by the Chief of Police or his/her designate.
- (h) A 21-gun salute will be performed by the Honor Guard at the committal service;
- (i) "Taps" will be played at the committal service;
- (j) A bagpiper may play at the committal service;
- (k) A police motorcycle escort will be provided for the funeral service.

#### 1042.7.8 DEPARTMENT REPRESENTATIVE AT OUT OF TOWN FUNERAL SERVICES FOR DEPARTMENT MEMBER WHO WAS KILLED IN THE LINE OF DUTY

With the approval of the Chief of Police, Department personnel will attend an out of town funeral of a Department member killed in the line of duty at the Department's expense, provided that no overtime or backfilling with overtime occurs (in accordance with the City "Funeral Attendance and Flag Half-Staffing Policy"). The distance to be traveled will be taken into consideration.

#### 1042.7.9 DEMEANOR OF OFFICERS AT MEMORIAL, FUNERAL AND COMMITTAL SERVICES

- (a) Memorial and Funeral Services:
  - 1. The word chapel is interpreted to include the church, funeral home, or other inside location where a memorial or funeral service is held, other than the committal service;
  - 2. The word casket is interpreted to include any receptacle containing the remains of the deceased, including cremated remains;
  - 3. The words cover and uncover are interpreted to be the placing of a hat and the removing of a hat from one's head;
- (b) When inside the chapel, the following will apply:
  - 1. Honor Guard members posted at the casket will remain covered;
  - 2. All other personnel with hats will remain uncovered and will carry the hat under the non-gun side when not seated;



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3. When outside the chapel, all personnel wearing hats will remain covered at all times.
- (c) Committal Services - At a law enforcement funeral, persons in uniform will come to ATTENTION and will execute a hand salute at the command, PRESENT ARMS, which will be given:
1. Any time the flag is being moved;
  2. When the casket is moved from the site of the funeral/memorial service to the hearse, or from the hearse to the site of the committal service;
  3. During the firing of volleys;
  4. While "Taps" is being played.
- (d) At a law enforcement funeral, law enforcement personnel not in uniform will place their right hand over the heart at the command, PRESENT ARMS, which will be given:
1. Any time the flag is being moved;
  2. During the firing of volleys;
  3. While "Taps" is being played.
- (e) The hand salute or the right hand over the heart will be held until the command, ORDER ARMS, is given.
- (f) In accordance with military custom, hats will not be removed outside for prayers, but all personnel will bow their heads, as a sign of respect.
- (g) Uniformed personnel, when not at ATTENTION, will remain in the position of PARADE REST during the outside committal service.

#### 1042.7.10 RESPONSE TO A LIFE THREATENING INJURY, ILLNESS OR DEATH NOT SUFFERED IN THE LINE OF DUTY

When a member of the Department suffers a life threatening injury or illness or is killed NOT in the line of duty, some or all of the above supportive measures may be provided at the request of the family and with the approval of the Chief of Police.

#### 1042.7.11 RESPONSE TO THE DEATH OF A RETIREE

In the event of the death of a retiree, where the family has requested the rendering of Departmental Honors for a local funeral service, the Family Support Team will be activated to fulfill such a request with the approval of the Chief of Police.

#### 1042.7.12 DEPARTMENTAL HONORS

Departmental Honors are the rendering of the honors at the funeral of a member of the Department where the cause of death was not in the course or scope of the member's employment. Departmental Honors are to be used at the funeral of a retired member of the Department. The following Departmental Honors will be rendered, upon request of the family:

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(a) Active Member:

1. All members of the Department with badges will place a black sash or ribbon on it. The sash is to be worn horizontally across the badge from the time of death until after the funeral, unless deemed otherwise by the Chief of Police;
2. A United States flag will be provided to drape the casket;
3. Flag folding ceremonies will be conducted by the Honor Guard;
4. The flag will be presented to the family by the Chief of Police or his/her designate;
5. A police motorcycle escort may be provided for the funeral service at the direction of the Chief of Police.

(b) Retired Member:

1. All members of the Department with badges may place a black sash or ribbon on it. The sash is to be worn horizontally across the badge from the time of death until after the funeral, unless deemed otherwise by the Chief of Police;
2. An Honor Guard representative will be assigned to the funeral parlor during all viewing times at the discretion of the Chief of Police;
3. A United States burial flag will be provided to drape the casket;
4. Colors will be conducted by the Honor Guard at the committal service at the discretion of the Chief of Police;
5. Flag folding ceremonies will be conducted by the Honor Guard;
6. The flag will be presented to the family by the Chief of Police or his/her designate;
7. "Taps" may be played at the committal service;
8. A bagpiper may play at the committal service;
9. A police motorcycle escort may be provided for the funeral service.

#### 1042.7.13 CEREMONIAL HONORS

Ceremonial Honors are the rendering of honors on, but not limited to, the funeral of a person the Department wishes to honor. Ceremonial Honors may include some or all of the honors rendered as part of the Full Departmental honors or Departmental Honors. All Ceremonial Honors must have prior approval of the Chief of Police.

#### 1042.7.14 DEATH OF ANOTHER LAW ENFORCEMENT AGENCY MEMBER

A member of an outside agency, which is recognized as a public law enforcement agency, who dies while taking any action that the member is authorized or obligated to perform by law, rule, regulation, or condition of employment or service, whether on or off duty within the City of Palo Alto.

- (a) The on-duty Watch Commander will immediately notify Palo Alto's Police Chief;

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- (b) The Palo Alto Police Chief will be responsible for contacting the involved employee's law enforcement agency in order to make official notification;
- (c) The Palo Alto Police Chief will then provide direction to our Department's staff based on the request of the other Chief.

#### 1042.7.15 DEPARTMENTAL REPRESENTATION AT FUNERALS OF OTHER LAW ENFORCEMENT AGENCY MEMBERS (LINE OF DUTY DEATHS)

A supervisory officer will be designated by the Executive Liaison, as the Officer-in-Charge of the Department's official representation at the funeral.

- (a) The dress of the day will be as designated by the hosting agency;
- (b) The Traffic Lieutenant may send escort motorcycles subject to staffing considerations at the time of the funeral;
- (c) The duties of the official representation team will be considered an on-duty assignment;
- (d) The make-up of the Department's official representation will be influenced by the distance to be traveled and staffing considerations;
- (e) This guideline does not prohibit attendance at other law enforcement agency funerals by those officers who wish to travel by private transportation, off-duty, nor does it prohibit the use of police vehicles, if approved by the Chief of Police.

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## Personal Appearance Standards

### 1044.1 PURPOSE AND SCOPE

In order to project 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.

### 1044.2 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.

#### 1044.2.1 HAIR

Hairstyles of all members shall be 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 top edge of the uniform collar while assuming a normal stance. Hair may be worn up in a braid or ponytail.

To maintain a professional image, all employees are prohibited from wearing hair color other than the norm, such as pink, blue, green, or any other color that could be perceived as unprofessional.

#### 1044.2.2 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.

#### 1044.2.3 SIDEBURNS

Sideburns shall not extend below the bottom of the ear lobe and shall be trimmed and neat.

#### 1044.2.4 FACIAL HAIR

Facial hair other than sideburns, mustaches and eyebrows shall not be worn, unless authorized by the Chief of Police or his or her designee.

### 1044.3 TATTOOS

Definition of "tattoo": The act or practice of marking the skin with indelible designs, forms, figures, art, etc., by making punctures in the skin and inserting pigment.

#### 1044.3.1 POLICY

All personnel hired after January 1, 2006 - While on duty or representing the Department in any official capacity, should make every reasonable effort to conceal tattoos or other body art.

All personnel hired prior to January 1, 2006 - Who already possess tattoo(s), must comply with the following regulations:

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- (a) Tattoo(s) can be visible when it is above the elbow(s).
- (b) A single visible tattoo is permitted when it is below the elbow and does not exceed a 3" x 4" section of the employee's arm. (One arm only)
- (c) A single visible tattoo is permitted when it is on a leg below the knee and the tattoo does not exceed a 3" x 4" section of the employee's leg. (One leg only)
- (d) If an employee that was hired prior to January 2006 acquires a new tattoo that is visible while wearing a short sleeve shirt or shorts, that employee would be required to conceal it while on-duty or representing the Department in any official capacity.
- (e) Personnel may be granted a one-time exemption by the Police Chief for a tattoo already in existence on the date of this policy that cannot be covered by a Department-approved uniform.

#### **1044.3.2 TATTOOS PROHIBITED**

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). The following includes, but is not limited to, the types of unauthorized tattoos, scarifications, or brands prohibited by this policy:

- (a) Depictions of nudity or violence.
- (b) Sexually explicit or vulgar art, words, phrases or profane language.
- (c) Symbols likely to incite a strong reaction in the workplace, i.e., swastikas, pentagrams or similar symbols.
- (d) Initials, acronyms or numbers that represent criminal or historically oppressive organizations, i.e., AB, KKK, SS, MM, BGF, HA666 or any street gang names, numbers and/or symbols.

At no time while on-duty or representing the Department in any official capacity shall an employee have a visible tattoo on their neck, face, scalp or head area.

#### **1044.4 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:

- (a) Tongue splitting or piercing.
- (b) The complete or transdermal implantation of any material other than hair replacement.
- (c) Abnormal shaping of the ears, eyes, nose or teeth
- (d) Branding or scarification.

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## Uniform Regulations

### 1046.1 PURPOSE AND SCOPE

The uniform policy of the Palo Alto Police Department is established to ensure that uniformed officers will be readily identifiable to the public through the proper use and wearing of department uniforms. Employees should also refer to the following associated Policy Manual sections:

Section 700 - Department Owned and Personal Property

Section 1024 - Body Armor

Section 1044 - Grooming Standards

The Uniform and Equipment Specifications policy is periodically updated by the Chief of Police or his/her designee. That policy should be consulted regarding authorized equipment and uniform specifications.

The Palo Alto Police Department will provide uniforms for all employees required to wear them in the manner, quantity and frequency agreed upon in the respective employee group's collective bargaining agreement.

### 1046.2 WEARING AND CONDITION OF UNIFORM AND EQUIPMENT

Police employees wear the uniform to be identified as the law enforcement authority in society. The uniform also serves an equally important purpose to identify the wearer as a source of assistance in an emergency, crisis or other time of need.

- (a) Uniform and equipment shall be maintained in a serviceable condition and shall be ready at all times for immediate use. Uniforms shall be neat, clean, and appear professionally pressed.
- (b) All peace officers of this department shall possess and maintain at all times, a serviceable uniform and the necessary equipment to perform uniformed field duty.
- (c) Personnel shall wear only the uniform specified for their rank and assignment.
- (d) The uniform is to be worn in compliance with the specifications set forth in the department's uniform specifications that are maintained separately from this policy.
- (e) All supervisors will perform periodic inspections of their personnel to ensure conformance to these regulations.
- (f) Civilian attire shall not be worn in combination with any distinguishable part of the uniform.
- (g) Uniforms are only to be worn while on duty, while in transit to or from work, for court, or at other official department functions or events, or for an event that is approved by an employee's immediate supervisor.
- (h) If the uniform is worn while in transit, an outer garment shall be worn over the uniform shirt so as not to bring attention to the employee while he/she is off-duty.

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- (i) Employees are not to purchase or drink alcoholic beverages while wearing any part of the department uniform, including the uniform pants.
- (j) The reserve officer's uniform will be the same as for the regular officer with the exception of the badge (which will have an "R" on it). All uniform policies, regulations and specifications apply equally to reserve officers.

#### 1046.2.1 DEPARTMENT ISSUED IDENTIFICATION

The Department issues each employee an official department identification card bearing the employee's name, identifying information and photo likeness. All employees shall be in possession of their department issued identification card at all times while on duty or when carrying a concealed weapon.

- (a) Whenever on duty or acting in an official capacity representing the department, employees shall display their department issued identification in a courteous manner to any person upon request and as soon as practical.
- (b) Officers working specialized assignments may be excused from the possession and display requirements when directed by their Division Captain.

#### **1046.3 UNIFORM CLASSES**

##### 1046.3.1 CLASS A UNIFORM

The Class A uniform is to be worn on special occasions such as funerals, graduations, ceremonies, or as directed. The Class A uniform is required for all sworn personnel. Refer to the Appendix for uniform specifications.

##### 1046.3.2 CLASS B UNIFORM

All officers will possess and maintain a serviceable Class B uniform at all times. Refer to the Appendix for uniform specifications.

##### 1046.3.3 SPECIALIZED UNIT UNIFORMS

The Chief of Police may authorize special uniforms to be worn by officers in specialized units such as Canine Team, SWAT, Bicycle Patrol, Motor Officers and other specialized assignments.

##### 1046.3.4 FOUL WEATHER GEAR

The Uniform and Equipment Specifications lists the authorized uniform jacket and rain gear.

#### **1046.4 INSIGNIA AND PATCHES**

- (a) **Shoulder Patches** - The authorized shoulder patch supplied by the Department shall be machine stitched to the sleeves of all uniform shirts and jackets, three-quarters of an inch below the shoulder seam of the shirt and be bisected by the crease in the sleeve.
- (b) **Service stripes, stars, etc.** - Service stripes and other indicators for length of service may be worn on long sleeved shirts and jackets. They are to be machine stitched onto the uniform. The bottom of the service stripe shall be sewn the width of one and one-half inches above

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the cuff seam with the rear of the service stripes sewn on the dress of the sleeve. The stripes are to be worn on the left sleeve only.

- (c) **The regulation nameplate**, or an authorized sewn on cloth nameplate, shall be worn at all times while in uniform. The nameplate shall display the employee's first and last name. If an employee's first and last names are too long to fit on the nameplate, then the initial of the first name will accompany the last name. If the employee desires other than the legal first name, the employee must receive approval from the Chief of Police. The nameplate shall be worn and placed above the right pocket on the seam with equal distance from both sides of the nameplate to the outer edge of the pocket.
- (d) **When a jacket is worn**, the nameplate or an authorized sewn on cloth nameplate shall be affixed to the jacket in the same manner as the uniform.
- (e) **Assignment Insignias** - Assignment insignias, (SWAT, FTO, etc.) may be worn as designated by the Chief of Police.
- (f) **Flag Pin** - A flag pin may be worn, centered above the nameplate.
- (g) **Badge** - The department issued badge, or an authorized sewn on cloth replica, must be worn and visible at all times while in uniform.
- (h) **Rank Insignia** - The designated insignia indicating the employee's rank must be worn at all times while in uniform. The Chief of Police may authorize exceptions.

#### 1046.4.1 MOURNING BADGE

Uniformed employees shall wear a black mourning band across the uniform badge whenever a law enforcement officer is killed in the line of duty. The following mourning periods will be observed:

- (a) An officer of this department - From the time of death until midnight on the 14th day after the death.
- (b) An officer from this or an adjacent county - From the time of death until midnight on the day of the funeral.
- (c) Funeral attendee - While attending the funeral of an out of region fallen officer.
- (d) National Peace Officers Memorial Day (May 15th) - From 0001 hours until 2359 hours.
- (e) As directed by the Chief of Police.

#### 1046.5 CIVILIAN ATTIRE

There are assignments within the Department that do not require the wearing of a uniform because recognition and authority are not essential to their function. There are also assignments in which the wearing of civilian attire is necessary.

- (a) All employees shall wear clothing that fits properly, is clean and free of stains, and not damaged or excessively worn.
- (b) The following items shall not be worn on-duty:



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1. T-shirt alone.
  2. Open-toed sandals or thongs.
  3. Swimsuit, tube tops, or halter-tops.
  4. Spandex type pants or see-through clothing.
  5. Distasteful printed slogans, buttons or pins.
- (c) Variations from this order are allowed at the discretion of the Police Chief or designee when the employee's assignment or current task is not conducive to the wearing of such clothing.
- (d) No item of civilian attire may be worn on-duty that would adversely affect the reputation of the Department or the morale of the employees.

#### **1046.6 POLITICAL ACTIVITIES, ENDORSEMENTS, AND ADVERTISEMENTS**

Unless specifically authorized by the Chief of Police, Palo Alto Police Department employees may not wear any part of the uniform, be photographed wearing any part of the uniform, utilize a department badge, patch or other official insignia, or cause to be posted, published, or displayed, the image of another employee, or identify himself/herself as an employee of the Palo Alto Police Department to do any of the following (Government Code §§ 3206 and 3302):

- (a) Endorse, support, oppose, or contradict any political campaign or initiative.
- (b) Endorse, support, oppose, or contradict any social issue, cause, or religion.
- (c) Endorse, support, or oppose, any product, service, company or other commercial entity.
- (d) Appear in any commercial, social, or non-profit publication, or any motion picture, film, video, public broadcast, or any website.

#### **1046.7 OPTIONAL EQUIPMENT - MAINTENANCE, AND REPLACEMENT**

- (a) Any of the items listed in the Uniform and Equipment Specifications as optional shall be purchased totally at the expense of the employee. No part of the purchase cost shall be offset by the Department for the cost of providing the Department issued item.
- (b) Maintenance of optional items shall be the financial responsibility of the purchasing employee. For example, repairs due to normal wear and tear.
- (c) Replacement of items listed in this order as optional shall be done as follows:
  1. When the item is no longer functional because of normal wear and tear, the employee bears the full cost of replacement.
  2. When the item is no longer functional because of damage in the course of the employee's duties, it shall be replaced following the procedures for the replacement of damaged personal property. (Policy Manual § 700)

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#### 1046.7.1 RETIREE BADGES

The Chief of Police may issue identification in the form of a badge, insignia, emblem, device, label, certificate, card or writing that clearly states the person has honorably retired from the Palo Alto Police Department. This identification is separate and distinct from the identification authorized by Penal Code § 25455 and referenced in the Retired Officer CCW Endorsement Policy in this manual.

A badge issued to an honorably retired peace officer that is not affixed to a plaque or other memento will have the words #Honorably Retired# clearly visible on its face. A retiree shall be instructed that any such badge will remain the property of the Palo Alto Police Department and will be revoked in the event of misuse or abuse (Penal Code § 538d).

#### **1046.8 UNAUTHORIZED UNIFORMS, EQUIPMENT AND ACCESSORIES**

Palo Alto Police Department employees may not wear any uniform item, accessory or attachment unless specifically authorized in the Uniform and Equipment Specifications or by the Chief of Police or designee.

Palo Alto Police Department employees may not use or carry any safety item, tool or other piece of equipment unless specifically authorized in the Uniform and Equipment Specifications or by the Chief of Police or designee.

#### **1046.9 UNIFORM PURCHASE/REPLACEMENT**

##### 1046.9.1 INITIAL ISSUANCE

Unless otherwise listed, at the time of initial employment, every sworn employee will be issued the following uniform equipment:

- (a) Three pairs of trousers;
- (b) Three short-sleeved shirts;
- (c) Three long-sleeved shirts;
- (d) Duty jacket;
- (e) Necktie;
- (f) Duty belt and necessary associated duty equipment;
- (g) Rain gear will be issued upon entry to the FTO program;
- (h) Ike jacket will be issued, at the officer's request, upon completion of probation.

All uniformed employees have the option at the time of initial issuance of obtaining one set of the regular uniform and two sets of the Blauer uniform, or two sets of the regular uniform and one set of the Blauer uniform. Employees must always have at least one set of a Class A uniform available.

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### 1046.9.2 REPLACEMENT

Issued uniforms and equipment will be replaced on an as-needed basis. The Field Services Division Staff Assistant, who may or may not authorize the replacement based on the appearance of the item, will inspect the item. Uniforms with small holes in them may be patched instead of replacing them. Age, repairable holes or tears, etc. are not grounds for replacement. Employees may be issued used uniforms/equipment that are still in good repair instead of having the Department purchase new items. Items that are replaced will be returned to the Field Services Division Staff Assistant for appropriate disposal.

### 1046.9.3 EMPLOYEE RESPONSIBILITIES

**Accountability:** Employees are responsible for all issued uniforms and equipment. If a particular item is lost or damaged due to employee negligence, the employee will be required to reimburse the City for the replacement cost. All lost or damaged equipment will be reported immediately to a supervisor. The employee will submit a memo to his or her supervisor regarding the lost items.

**Departure from a specialty position:** Whenever any employee leaves a specialty position, he or she is responsible for returning all of the issued specialty equipment to the Field Services Division Staff Assistant. The specialty team's supervisor will be responsible for ensuring that this takes place.

**Departure from the City:** When an employee leaves the position of sworn officer, the unloaded duty weapon, speed loaders, magazines, Department ammunition, identification card, security card, badge, hat badge, TASER, TASER CAM and TASER cartridges will be turned in to the Personnel and Training Unit supervisor. All other issued equipment will be turned in to the Field Services Division Staff Assistant. The employee will be responsible for making arrangements to turn in all issued equipment. The employee may be charged for any equipment that is missing. Equipment will not be left in the employee's locker.

**Records:** The Field Services Division Staff Assistant will be responsible for maintaining files regarding issued equipment.

### 1046.10 KNIFE (UTILITY)

At the employee's option and expense, a folding (Buck) type knife or a Leatherman style tool that contains a folding knife may be carried for utility purposes as part of the employee's uniform. The knife blade shall measure no more than four inches and shall have a single cutting edge. The knife shall be carried in a closed condition either in a sheath, which matches the other carriers on the duty belt, secured by a snap or Velcro and attached to the employee's duty belt or securely clipped to the employee's uniform. Fixed blade knives, boot knives, or switchblade knives (as defined in PC653k) are not authorized.

This section does not apply to members of Palo Alto SWAT during team activations or training; however, any deviation from the above authorized knives must be at the approval of the SWAT Team Coordinator.

## Police Explorer Program

### 1048.1 PURPOSE AND SCOPE

The Palo Alto Police Department Explorer Post is organized within the guidelines set forth by the national Learning for Life organization. The Post provides an opportunity for Explorers, consisting of juveniles and young adults of Palo Alto and surrounding areas, to improve community relations with the Police Department, learn about the law enforcement profession, develop life skills, and gain leadership experience.

The specific operational details of the Explorer Post are outlined in the PAPD Explorer Operations Manual, which is incorporated by reference herein. Part of the intent of this policy is to ensure that the Department conforms to the rules set forth by Learning For Life governing youth participation and oversight.

### 1048.2 EXPLORER POST ADVISOR STAFF POSITIONS

The Explorer Post Advisor Staff members are responsible for the general operation of the Explorer Post and its integration into Department activities, events, and operations.

All Staff Advisors shall, at a minimum, be non-probationary employees in good standing, be registered as an advisor with Learning For Life, have received training in Youth Protection, and participate in regular training as required by Learning For Life.

**Head Advisor:** The Head Advisor shall be appointed by the Field Services Division Captain and is responsible for the general administration and operations of the Post. The Head Advisor shall maintain the Post's registration with Learning For Life.

**Associate Advisor:** All Associate Advisors will report to the Head Advisor for Post matters. The Head Advisor is responsible for disciplinary matters involving Explorers. Associate Advisor: The Associate Advisor's are responsible for assisting with Post activities, events, training, and operations. Problems arising in the Post should be brought to the attention of the Head Advisor.

### 1048.3 EXPLORER UNIFORM AND ATTIRE

The Department will provide the Explorer Scout with uniform equipment as outlined in the Operations Manual. Explorers shall wear an appropriate uniform while on-duty at all details, on ride-alongs, and when performing volunteer services. Explorers shall wear appropriate civilian attire when participating in Post activities in which they are not considered to be on-duty.

### 1048.4 EXPLORER RIDE-ALONGS

Explorers may participate in ride-alongs with sworn, non-probationary officers in accordance with the guidelines set forth in the Operations Manual. Scheduling of all ride-alongs shall be performed through the proper Explorer chain of command. Explorers shall not individually schedule ride-alongs directly with officers although they may request to ride with a specific officer. While on a ride-along, Explorers shall take direction and orders from the host officer at all times. Explorers

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shall stay in or near the patrol vehicle unless directed to do otherwise by the officer. Explorers shall wear a seat belt.

A standard Explorer ride-along is six (6) hours long. The Explorer may ride longer, at the officer's discretion, within the following guidelines: Ride-alongs shall start no earlier than 0700 hours and no later than 2000 hours. Ride-alongs shall end no later than midnight for Explorers under 18 years old and no later than 0100 hours for Explorers 18 years old or older. In the event that an officer is unable to return the Explorer to the station or home by the deadline due to an extended call for service, the officer shall notify the field supervisor or watch commander and arrangements shall be made to return the Explorer to the station or home, as soon as is practical.

Explorers violating the ride-along hours shall be subject to discipline.

Either the officer or Explorer may terminate a ride-along at any time for any reason. When a ride-along is terminated early, the Explorer and the officer shall inform the Head Advisor of the circumstances and reason for the early termination in order to address any problems or concerns with the ride-along.

#### **1048.4.1 CRITICAL INCIDENTS AND OFFICER EMERGENCIES**

Explorers are specifically ordered to remain in the patrol vehicle during incidents or calls that are obviously hazardous to the Explorer's health and safety. In the case of calls that are clearly life-threatening to the host officer (i.e. active-shooters, riots, etc.), reasonable efforts should be made to drop the Explorer off at a safe location before the officer arrives at that call. In such cases, the officer shall notify Communications of the Explorer's whereabouts and arrangements shall be made to take the Explorer home or back to the station, as soon as is practical. If the Explorer cannot be left at a safe location prior to arrival at the scene, the Explorer shall seek a position of cover near the scene.

Explorers are not expected to go to the aid of an officer in trouble, except to notify Communications of the emergency when possible. Explorers are expected to seek a safe position in the event that the Explorer's own safety is in serious jeopardy. However, this policy does not prohibit Explorers from taking reasonable steps to ensure their own safety in exigent circumstances.

If an Explorer is involved in a critical incident, the Head Advisor shall be notified immediately. The Explorer shall not be interviewed in depth, regardless of the Explorer's involvement, without an uninvolved Advisor present, except to ascertain immediately necessary public safety information. Any Explorers involved in a critical incident shall be offered limited initial counseling services through the Department.

#### **1048.5 GENERAL EXPLORER SUPERVISION**

To comply with the Youth Protection guidelines set forth by Learning For Life, Explorers shall not intentionally be placed in situations in which they are alone with only one adult in a private environment for an extended time. At least one Advisor and at least one additional supervising adult must attend any Post-specific activity.

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Details and ride-alongs, by their nature, are assumed to occur in a public environment and thus only require a minimum of one sworn officer (preferably an Advisor at details) for supervision.

For the purposes of supervision, a "supervising adult" is considered to be any Staff Advisor, Department employee, parent of an Explorer, Advisor of a different Explorer Post, or any other responsible adult of at least 21 years of age who has been approved by the Head Advisor.

#### **1048.5.1 EMPLOYEE SUPERVISION DURING TRIPS/ACTIVITIES**

Advisors and Department employees attending Post trips or activities are responsible for the safety and care of the Explorers. As such, at least one or more supervising adults must be in proper condition to tend to the needs of the Explorers at any given time.

#### **1048.5.2 FRATERNIZATION**

Explorers participate in activities that place them under the direct supervision of Palo Alto Police Department employees (both sworn and non-sworn). As such, fraternization between Explorers and Department employees is inconsistent and incompatible with the goals of this program. While it is natural for friendships to develop between Explorers and Department employees, social relationships are restricted as follows:

Palo Alto Police Department employees are specifically prohibited from establishing and/or maintaining dating, intimate, and/or sexual relationships with any Explorer in this Post.

#### **1048.6 EXPLORER ACTIVITIES**

Requests for Explorer involvement in details or volunteer tasks shall be made through the Head Advisor for scheduling and approval. Explorers shall not be recruited individually for details or volunteer opportunities. Event/activity coordinators may request specific Explorers with good cause.

Explorers may be utilized in Department and Community details in a capacity that does not intentionally place them in situations that present clear danger of physical harm. Explorers may also perform volunteer services for the Department. Such services may include, but are not limited to, assisting with tasks in the station and acting as role-players for training activities.

Explorers may participate in organized Post-specific activities (i.e. recreational field trips, Explorer Conferences, etc.) Activities shall be planned in accordance with Department and Learning For Life policies and shall be open to all eligible Explorers.

Explorers shall not be used in any covert or undercover operations as members of the Post. However, they may be offered the opportunity to participate as private citizens in such operations as permitted by Department policy. The Post and Learning For Life assume no liability or responsibility for any participants during such operations.

#### **1048.7 OVERNIGHT TRIPS**

Some Explorer details and activities may require one or more overnight stays away from home. On any overnight trip:

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- (a) At least one supervising adult must be of the same gender as any Explorer attending.
- (b) Supervising adults shall not share individual rooms with any Explorers, but may be in the same room as ALL Explorers if the sleeping location is arranged for the entire group (i.e. everyone is staying in a high school gym).
- (c) Male and female Explorers shall not share an individual room, except those that are married to each other.
- (d) Facilities must provide sufficient privacy for individuals when changing or bathing.

#### **1048.8 EXPLORER MISCONDUCT-INTERNAL INVESTIGATIONS**

This section does not apply to criminal investigations.

Although Explorers are at-will volunteers for the Department and may be terminated from their position without cause, Explorers are valued by the department. As such, allegations of misconduct should be reviewed in a fair, thorough, and impartial manner.

Any allegation(s) of Explorer criminal activity, policy violations, violations of guidelines set forth in the Operations Manual, or other impropriety shall be brought to the attention of the Head Advisor even if the allegations involve actions the Explorer took off-duty.

The Head Advisor may make brief initial inquiries to determine the accuracy and seriousness of the allegation(s). The inquiries should not be constructed as a "fishing expedition."

Should it appear from the initial inquiry that the Explorer should be placed on leave or terminated from the Post, the Head Advisor shall notify the Field Services Division Captain and conduct an investigation with management oversight.

Upon conclusion of the investigation, the Head Advisor shall discuss appropriate actions with the Field Services Division Captain, prior to imposing them.

Explorers under criminal investigation by any jurisdiction may be suspended from the Post immediately, pending the outcome of the criminal investigation. Explorers may be subject to Post-specific corrective actions based upon the criminal investigation findings.

Officers or citizens who have complaints about any individual Explorer or the Post shall bring their concerns to the Head Advisor directly. Hearsay complaints from third parties shall not be entertained.

##### **1048.8.1 INTERVIEWING EXPLORERS " INTERNAL INVESTIGATIONS**

This section does not apply to criminal investigations

Any Explorer that is the subject to an investigation shall be interviewed as follows:

- (a) The Explorer shall be informed of the specific allegation(s) at the start of an interview.
- (b) The interview shall be conducted by a maximum of two people including the Head Advisor.
- (c) The interview shall be held at a reasonable time of day and shall be as short as possible.

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- (d) The interview shall focus strictly on the allegation(s) and shall not be a "fishing expedition."
- (e) The Explorer shall be afforded any and all breaks necessary to tend to personal needs.
- (f) The Explorer shall not be subjected to harsh language, threats, or other abusive behavior.
- (g) The Explorer shall be allowed to bring a parent and/or an uninvolved representative (such as a Department employee) for support.
- (h) The Explorer may have a maximum of two support persons.
  - 1. The support person(s) may sit in on the interview to ensure that the Explorer is treated properly, but the interview may be terminated if the support person(s) unnecessarily interfere with the investigation.
  - 2. If the Explorer cannot be interviewed without interference, then the investigation may be concluded without taking the unasked interview questions into consideration.

#### **1048.9 EXPLORER DIRECTIVES**

Absent exigent circumstances when no other options exist:

- Explorers shall not take direct criminal enforcement actions
- Explorers shall not be placed in circumstances or be asked to take any action that would intentionally subject them to being subpoenaed to court
- Explorers shall not use restricted computer systems (i.e. CJIC, CLETS, etc.), unless they are fully certified to do so and they are supervised by a qualified Department employee
- Explorers shall not drive marked patrol vehicles except while under immediate supervision during Department or Post sponsored training activities
- Explorers shall not drive a personal vehicle to perform official Department duties or activities unless specifically authorized to do so by the Head Advisor
- Explorers may perform light traffic control with a level of supervision appropriate to the conditions
- Explorers may, at the specific direction of an officer, assist with non-emergency and non-restricted duties (i.e. filling out forms as a scribe, broadcasting radio traffic, etc.)



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## Nepotism and Conflicting Relationships

### 1050.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure equal opportunity and effective employment practices by avoiding actual or perceived favoritism, discrimination or actual or potential conflicts of interest by or between members of this department. These employment practices include: recruiting, testing, hiring, compensation, assignment, use of facilities, access to training opportunities, supervision, performance appraisal, discipline and workplace safety and security.

#### 1050.1.1 DEFINITIONS

**Business relationship** - Serving as an employee, independent contractor, compensated consultant, owner, board member, shareholder, or investor in an outside business, company, partnership, corporation, venture or other transaction, where the Department employee's annual interest, compensation, investment or obligation is greater than \$250.

**Conflict of interest** - Any actual, perceived or potential conflict of interest in which it reasonably appears that a department employee's action, inaction or decisions are or may be influenced by the employee's personal or business relationship.

**Nepotism** - The practice of showing favoritism to relatives over others in appointment, employment, promotion or advancement by any public official in a position to influence these personnel decisions.

**Personal relationship** - Includes marriage, cohabitation, dating or any other intimate relationship beyond mere friendship.

**Public official** - A supervisor, officer or employee vested with authority by law, rule or regulation or to whom authority has been delegated.

**Relative** - An employee's parent, stepparent, spouse, domestic partner, significant other, child (natural, adopted or step), sibling or grandparent.

**Subordinate** - An employee who is subject to the temporary or ongoing direct or indirect authority of a supervisor.

**Supervisor** - An employee who has temporary or ongoing direct or indirect authority over the actions, decisions, evaluation and/or performance of a subordinate employee.

### 1050.2 RESTRICTED DUTIES AND ASSIGNMENTS

The Department will not prohibit all personal or business relationships between employees. However, in order to avoid nepotism or other inappropriate conflicts, the following reasonable restrictions shall apply (Government Code § 12940(a)):

- (a) Employees are prohibited from directly supervising or being directly supervised by any other employee who is a relative or with whom they are involved in a personal or business relationship.

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1. If circumstances require that such a supervisor/subordinate relationship exist temporarily, the supervisor shall make every reasonable effort to defer matters pertaining to the involved employee to an uninvolved supervisor.
  2. When personnel and circumstances permit, the Department will attempt to make every reasonable effort to avoid placing employees in such supervisor/subordinate situations. The Department, however, reserves the right to transfer or reassign any employee to another position within the same classification in order to avoid conflicts with any provision of this policy.
- (b) Employees are prohibited from participating in, contributing to or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions affecting an employee who is a relative or with whom they are involved in a personal or business relationship.
- (c) Whenever possible, FTOs and other trainers will not be assigned to train relatives. FTOs and other trainers are prohibited from entering into or maintaining personal or business relationships with any employee they are assigned to train until such time as the training has been successfully completed and the employee is off probation.
- (d) To avoid actual or perceived conflicts of interest, members of this department shall refrain from developing or maintaining personal or financial relationships with victims, witnesses or other individuals during the course of or as a direct result of any official contact.
- (e) Except as required in the performance of official duties or, in the case of immediate relatives, employees shall not develop or maintain personal or financial relationships with any individual they know or reasonably should know is under criminal investigation, is a convicted felon, parolee, fugitive or registered sex offender or who engages in serious violations of state or federal laws.

#### 1050.2.1 EMPLOYEE RESPONSIBILITY

Prior to entering into any personal or business relationship or other circumstance which the employee knows or reasonably should know could create a conflict of interest or other violation of this policy, the employee shall promptly notify his/her uninvolved, next highest level of supervisor.

Whenever any employee is placed in circumstances that would require the employee to take enforcement action or provide official information or services to any relative or individual with whom the employee is involved in a personal or business relationship, the employee shall promptly notify his/her uninvolved, immediate supervisor. In the event that no uninvolved supervisor is immediately available, the employee shall promptly notify dispatch to have another uninvolved employee either relieve the involved employee or minimally remain present to witness the action.

#### 1050.2.2 SUPERVISOR'S RESPONSIBILITY

Upon being notified of, or otherwise becoming aware of any circumstance that could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable steps

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to promptly mitigate or avoid such violations whenever possible. Supervisors shall also promptly notify the Chief of Police of such actual or potential violations through the chain of command.

## Department Badges

### 1052.1 PURPOSE AND SCOPE

The Palo Alto Police Department badge and uniform patch as well as the likeness of these items and the name of the Palo Alto Police Department are property of the Department and their use shall be restricted as set forth in this policy.

### 1052.2 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.

#### 1052.2.1 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 Palo Alto 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 Policy Manual 700.
- (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.

#### 1052.2.2 CIVILIAN 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 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.

#### 1052.2.3 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.

## *Department Badges*

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### **1052.3 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 civilian 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.

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## Modified Duty Assignments

### 1054.1 PURPOSE AND SCOPE

It is the policy of the Palo Alto Police Department to provide modified duty assignments when reasonably available for sworn and non-sworn employees recovering from work related illness or injury. Upon approval of the Personnel and Training Lieutenant, light/modified duty assignments may be provided for non-work related injury or illness and pregnancy. Approval for such modified duty assignments shall be based upon written approval of the employee's attending physician, the availability of modified duty assignments and the Department's ability to provide work consistent with medical limitations and the time frame of the limitation.

### 1054.2 DEFINITIONS

**Modified Duty** - Means a temporary, limited-term assignment not requiring performance of the full range of duties associated with the regular job classification. Modified duty also may be termed as light-duty assignments.

### 1054.3 LIMITATIONS

Employees on modified duty shall not wear a police uniform or drive a marked patrol vehicle without prior written permission from the Personnel and Training Lieutenant. Those employees who want to carry their duty weapon while in the police station or concealed in public, must obtain approval from the Personnel and Training Lieutenant. Employees authorized to carry a firearm must qualify with that weapon during the quarterly firearms qualification. Employees are not to take any enforcement action, except under the most dire circumstances, such as when the modified duty officer happens upon or is in the immediate vicinity of a situation wherein the life of a citizen or officer is in immediate peril and the modified officer's inaction could result in the death or great bodily injury of the person in peril.

California Labor Code § 4850: Sworn personnel who accumulate one full year of disability compensation, in a single increment, as mandated by the California Labor Code § 4850, will not be returned to or continue on a modified duty assignment. In such cases, sworn personnel will be compensated in accordance with established City of Palo Alto regulation.

### 1054.4 PROCEDURE

Employees performing modified duties will be assigned to the Lieutenant of Personnel and Training. The Lieutenant will determine specific assignments taking into consideration medical limitations prescribed by the attending physician. Duty hours will be assigned to best meet the needs of the Department. Personnel assigned to Investigative Services, Technical Services, Staff Assistant, Personnel and Training, and those that are able to continue their full-duty assignment in a modified duty capacity will continue to do so.

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### *Modified Duty Assignments*

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#### **1054.4.1 MODIFIED-DUTY ASSIGNMENTS AND SCHEDULES**

Any assignment to modified duty will be on a temporary basis. This policy is not intended to create any permanent modified duty assignments. Any assignment to a modified duty position shall not displace any other employee without the consent of all parties involved. Every effort will be made to assign an employee to a task within the police department, however if no assignment is available, the employee may be assigned to another City Department to perform a designated modified assignment, which will be coordinated by the City's Risk Manager.

The schedules of employees assigned to modified duty may be adjusted to suit medical appointments or Department needs. When acceptable to both the employee and management, the employee's work schedule will remain the same.

The employee and his/her supervisors should be informed in writing of the schedule, assignment and limitations and restrictions as determined by the employee's health care provider.

#### **1054.4.3 MEDICAL EXAMINATIONS**

The Department reserves the right to require, prior to returning to full-duty status, a fitness-for-duty examination of any employee assigned to a modified-duty assignment or of any employee having been on such assignment. Such examinations shall be at the expense of the Department.

Prior to returning to full-duty status, employees shall be required to provide a statement signed by their health care provider indicating that they are medically cleared to perform the basic and essential job functions of their assignment without restriction or limitation.

#### **1054.6 PROBATIONARY EMPLOYEES**

Probationary employees who are assigned to a temporary modified-duty assignment shall have their probation extended by a period of time equal to the employee's assignment to modified duty.

# Employee Speech, Expression and Social Networking

## 1058.1 PURPOSE AND SCOPE

This policy is intended to address issues associated with employee use of social networking sites and to provide guidelines for the regulation and balancing of employee speech and expression with the needs of the Department.

Nothing in this policy is intended to prohibit or infringe upon any communication, speech or expression that is protected or privileged under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws. For example, this policy does not limit an employee from speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or officer associations, about matters of public concern, such as misconduct or corruption.

Employees are encouraged to consult with their supervisor regarding any questions arising from the application or potential application of this policy.

### 1058.1.1 APPLICABILITY

This policy applies to all forms of communication including, but not limited to, film, video, print media, public or private speech, use of all Internet services, including the World Wide Web, e-mail, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, video and other file-sharing sites.

## 1058.2 POLICY

Public employees occupy a trusted position in the community, and thus, their statements have the potential to contravene the policies and performance of this department. Due to the nature of the work and influence associated with the law enforcement profession, it is necessary that employees of this department be subject to certain reasonable limitations on their speech and expression. To achieve its mission and efficiently provide service to the public, the Palo Alto Police Department will carefully balance the individual employee's rights against the Department's needs and interests when exercising a reasonable degree of control over its employees' speech and expression.

## 1058.3 SAFETY

Employees should consider carefully the implications of their speech or any other form of expression when using the Internet. Speech and expression that may negatively affect the safety of the Palo Alto Police Department employees, such as posting personal information in a public forum, can result in compromising an employee's home address or family ties. Employees should therefore not disseminate or post any information on any forum or medium that could reasonably be anticipated to compromise the safety of any employee, an employee's family or associates.



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## Policy Manual

### *Employee Speech, Expression and Social Networking*

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Examples of the type of information that could reasonably be expected to compromise safety include:

- Disclosing a photograph and name or address of an officer who is working undercover.
- Disclosing the address of a fellow officer.
- Otherwise disclosing where another officer can be located off-duty.

#### **1058.4 PROHIBITED SPEECH, EXPRESSION AND CONDUCT**

To meet the department's safety, performance and public-trust needs, the following are prohibited unless the speech is otherwise protected (for example, an employee speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or officer associations, on a matter of public concern):

- (a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation or professionalism of the Palo Alto Police Department or its employees.
- (b) Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the Palo Alto Police Department and tends to compromise or damage the mission, function, reputation or professionalism of the Palo Alto Police Department or its employees. Examples may include:
  1. Statements that indicate disregard for the law or the state or U.S. Constitution.
  2. Expression that demonstrates support for criminal activity.
  3. Participating in sexually explicit photographs or videos for compensation or distribution.
- (c) Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the employee as a witness. For example, posting statements or expressions to a website that glorify or endorse dishonesty, unlawful discrimination or illegal behavior.
- (d) Speech or expression of any form that could reasonably be foreseen as having a negative impact on the safety of the employees of the Department. For example, a statement on a blog that provides specific details as to how and when prisoner transportations are made could reasonably be foreseen as potentially jeopardizing employees by informing criminals of details that could facilitate an escape or attempted escape.
- (e) Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics as adopted by the Palo Alto Police Department.
- (f) Use or disclosure, through whatever means, of any information, photograph, video or other recording obtained or accessible as a result of employment with the Department for financial or personal gain, or any disclosure of such materials without the express authorization of the Chief of Police or the authorized designee.

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### *Employee Speech, Expression and Social Networking*

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- (g) Posting, transmitting or disseminating any photographs, video or audio recordings, likenesses or images of department logos, emblems, uniforms, badges, patches, marked vehicles, equipment or other material that specifically identifies the Palo Alto Police Department on any personal or social networking or other website or web page, without the express authorization of the Chief of Police.
- (h) Accessing websites for non-authorized purposes, or use of any personal communication device, game device or media device, whether personally or department-owned, for personal purposes while on-duty, except in the following circumstances:
  - 1. When brief personal communication may be warranted by the circumstances (e.g., inform family of extended hours).
  - 2. During authorized breaks such usage should be limited as much as practicable to areas out of sight and sound of the public and shall not be disruptive to the work environment.

Employees must take reasonable and prompt action to remove any content, including content posted by others, that is in violation of this policy from any web page or website maintained by the employee (e.g., social or personal website).

#### 1058.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

While employees are not restricted from engaging in the following activities as private citizens or as authorized members of a recognized bargaining unit or officer associations, employees may not represent the Palo Alto Police Department or identify themselves in any way that could be reasonably perceived as representing the Palo Alto Police Department in order to do any of the following, unless specifically authorized by the Chief of Police (Government Code § 3206; Government Code § 3302):

- (a) Endorse, support, oppose or contradict any political campaign or initiative.
- (b) Endorse, support, oppose or contradict any social issue, cause or religion.
- (c) Endorse, support or oppose any product, service, company or other commercial entity.
- (d) Appear in any commercial, social or nonprofit publication or any motion picture, film, video, public broadcast or on any website.

Additionally, when it can reasonably be construed that an employee, acting in his/her individual capacity or through an outside group or organization (e.g., bargaining group or officer associations), is affiliated with this department, the employee shall give a specific disclaiming statement that any such speech or expression is not representative of the Palo Alto Police Department.

Employees retain their right to vote as they choose, to support candidates of their choice and to express their opinions as private citizens, including as authorized members of a recognized bargaining unit or officer associations, on political subjects and candidates at all times while off-duty.

## *Employee Speech, Expression and Social Networking*

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However, employees may not use their official authority or influence to interfere with or affect the result of an election or a nomination for office. Employees are also prohibited from directly or indirectly using their official authority to coerce, command or advise another employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes (5 USC § 1502).

### **1058.5 PRIVACY EXPECTATION**

Employees forfeit any expectation of privacy with regard to e-mails, texts or anything published or maintained through file-sharing software or any Internet site (e.g., Facebook, MySpace) that is accessed, transmitted, received or reviewed on any department technology system.

The Department reserves the right to access, audit and disclose for whatever reason any message, including attachments, and any information accessed, transmitted, received or reviewed over any technology that is issued or maintained by the Department. This includes the department e-mail system, computer network or any information placed into storage on any department system or device.

It also includes records of all key strokes or web-browsing history made at any department computer or over any department network.

The fact that access to a database, service or website requires a user name or password will not create an expectation of privacy if it is accessed through a department computer or network. However, the Department may not require an employee to disclose a personal user name or password or open a personal social website, except when access is reasonably believed to be relevant to the investigation of allegations of work related misconduct (Labor Code § 980).

### **1058.6 CONSIDERATIONS**

In determining whether to grant authorization of any speech or conduct that is prohibited under this policy, the factors that the Chief of Police or authorized designee should consider include:

- (a) Whether the speech or conduct would negatively affect the efficiency of delivering public services.
- (b) Whether the speech or conduct would be contrary to the good order of the Department or the efficiency or morale of its members.
- (c) Whether the speech or conduct would reflect unfavorably upon the Department.
- (d) Whether the speech or conduct would negatively affect the member's appearance of impartiality in the performance of his/her duties.
- (e) Whether similar speech or conduct has been previously authorized.
- (f) Whether the speech or conduct may be protected and outweighs any interest of the Department.

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### *Employee Speech, Expression and Social Networking*

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#### **1058.7 TRAINING**

Subject to available resources, the Department should provide training regarding employee speech and the use of social networking to all members of the Department.

## Critical Incident Stress Management

### 1059.1 PURPOSE AND SCOPE

Due to the unique work of law enforcement, employees of this agency are exposed to cumulative and critical incident stress. A proven tool to mitigate those stressors is the use of stress management programs. Peer driven support programs have shown to be particularly effective in the law enforcement field. The Palo Alto Police Department recognizes the importance of such a program and has established a special team to provide for the welfare of its employees. This team works in conjunction with other employee support programs such as the Police Chaplaincy Program and Employee Assistance Program.

### 1059.2 MISSION STATEMENT

The Palo Alto Police Department's most valuable resource is its employees. The goal of the Critical Incident Stress Management program is to provide assistance to employees in dealing with the stresses caused by personal and/or professional problems. The program is designed to help employees manage stress, deal with trauma, increase well-being and continue to be productive. To implement this program the Department maintains a Critical Incident Stress Management Team (CISMT).

### 1059.3 CRITICAL INCIDENT STRESS MANAGEMENT TEAM

The Critical Incident Stress Management Team is comprised of sworn and non-sworn Department employees who serve as members on this part time specialty assignment.

This team is designed to:

- (a) Provide emotional support for department employees during and after times of personal or professional crises or critical incidents. A critical incident is defined as any incident experienced by an employee, that the employee feels affects his/her well-being.
- (b) Promote trust, allow anonymity, and preserve confidentiality for persons using CISMT within the guidelines of the program.
- (c) Develop team members who can identify issues and conflicts and provide guidance or referral to professional\alternate resources as required.
- (d) As desired by the affected employee, provide assistance and support to employees and their family, referring him\her to the appropriate outside resource when necessary.
- (e) Check on status of employees who have undergone a critical incident or crisis, suffered illnesses or injuries whether on or off-duty and provide support where desired.

### 1059.4 FUNCTIONS OF A CRITICAL INCIDENT STRESS MANAGEMENT PROGRAM

The key functions of the program are facilitated by the CISMT and include providing defusings and debriefings, providing basic peer support and referring employees to other services such as the Police Chaplain and Employee Assistance Program.

## *Critical Incident Stress Management*

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### 1059.4.1 DEFUSING

A defusing is the process of providing support to department employees who have been involved in a critical incident soon after the incident occurred. A defusing may be conducted individually or with the group of involved employees. During a defusing, the CISMT will facilitate a review of the incident and provide information to assist the employee through the initial emotional response caused by the critical incident.

The goal is to mitigate the effects of the incident that could have a significant negative impact on employees and their family's mental, emotional, and physiological well-being.

As needed, the CISMT will also see to the immediate needs of the employee and their family through established resources.

### 1059.4.2 DEBRIEFING

A debriefing process is a more formal and lengthier process than the defusing and usually occurs 48 to 72 hours after the incident. During a debriefing, the CISMT may bring in additional resources including CISM professionals and allied agency teams. Debriefings are expanded defusings and are generally reserved for more intense situations.

Note that CISM defusings and debriefings are different than tactical debriefings or after action reviews which focus on performance. Defusings and debriefings, as used in the CISM context, focus on assisting employees in managing stress.

Some complex incidents may require a CISM defusing, a CISM debriefing and an after action tactical review while other incidents may require only one or none at all.

### 1059.4.3 CISM DEFUSING OR DEBRIEFING ATTENDANCE

In the event of any of the following incidents, a defusing or debriefing will generally be conducted. The following incidents shall serve as trigger points to activate the defusing or debriefing process. When these criteria are met, involved employees will be encouraged to attend the defusing/debriefings but participation will remain completely voluntary. No employee will be ordered to attend nor will they be sanctioned if they choose not to attend.

- (a) When an employee witnesses a death or serious injury to a fellow employee, or an incident where there was the high potential of such.
- (b) When a citizen is killed or suffers a serious injury as a result (perceived or actual) of that employee's action.
- (c) When an employee is himself or herself seriously injured, and a debriefing is logistically possible.
- (d) When a juvenile is killed or seriously injured and an employee was involved in the response or investigation.
- (e) As directed by the CISMT Coordinator. Any CISMT member, Department Supervisor or Command Staff member may suggest that a defusing or debriefing be conducted by the CISMT after an incident. In those situations, the CIMST Coordinator or their designee will

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consult as to the best course of action. The goal of any post-incident CISMT response will be providing for the short and long-term welfare of our employees.

### 1059.4.4 PEER SUPPORT

In addition to conducting defusing and debriefings, the CISMT is made up of individuals with whom an employee can choose to discuss issues affecting an employee. CISMT members will maintain current information on the various resources available to provide to an employee. The CISMT is not intended to replace professional help, nor are members of the CISMT professional counselors. Rather, the CISMT is a peer support team available to offer support and refer Department employees to proper resources. No record will be kept of the contact except for the time spent by the CIMST member. CISMT member are authorized to use department facilities to meet with employees.

CISMT members are permitted to consult with employees while on-duty. If the consultation will interfere with either parties work or if the employee is in distress, the CISMT members will advise the appropriate employee's supervisor.

Employees will not be referred to CIMST by supervisors for unacceptable job performance or as a result of disciplinary action. However, supervisors are encouraged to offer the services of CISMT, EAP, Police Chaplain and other such programs to any of their employees they feel might benefit from it.

### 1059.4.5 EMPLOYEE ASSISTANCE PROGRAM (EAP)

The City of Palo Alto provides its employees with free access to licensed mental health professionals and counselors covering a variety of topics as part of an EAP program. Employees are encouraged to take advantage of the program as well as the database of information available on the provider's website. CISMT members provide employees with contact information for the EAP as well as what specific services are offered. Employees are free to use the system with or without any involvement from the CISMT.

### 1059.4.6 POLICE CHAPLAINCY PROGRAM

The Police Chaplaincy program is a stand alone program separate from the CISMT however segments of their duties are considered part of the overall Critical Stress Management Program. Also, police chaplains may be selected for assignment on the CISMT. Police Chaplains are unique from other CISMT members such as their protections against divulging confidential information and their special perspectives. Therefore, police chaplains are an important asset to the team.

## **1059.5 ROLE OF THE COORDINATOR AND ASSISTANT COORDINATOR**

### 1059.5.1 THE CISMT COORDINATOR

The CISMT Coordinator is the supervisor of the team and is charged with ensuring the team is being managed in accordance with the goals and objectives established for the program. Major duties of the Coordinator include:

- (a) Supervising the CISM Program and the CISMT on a daily basis.

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- (b) Coordinating activation and use of the CIMST and ensuring notification of appropriate supervisor and managers of affected personnel when team is activated.
- (c) Ensuring defusing/debriefings and initial/follow-up support is provided within policy and in the best interest of Department employees.
- (d) Managing the application process, training, development and personnel issues of CISMT members.
- (e) Maintaining statistical (anonymous) information on the use of the team.
- (f) Developing CISM resources.
- (g) Providing liaison to Department Supervisors and Command Staff, as well as the Police Chaplain on CISM matters.
- (h) Providing liaison to allied agencies and other similar teams.

### 1059.5.2 THE CISMT ASSISTANT COORDINATOR

The CISMT Assistant Coordinator works under the direction of the Team Coordinator and fills the role of supervisor for the team during the Coordinator's absence. In addition to fulfilling their role as a fully functional team member, the Assistant Coordinator may be tasked with managing aspects of the program.

If a CISMT activation or call out is requested and the Team Coordinator cannot be reached, the Assistant Coordinator should be contacted.

### **1059.6 TEAM MEMBER ROLES**

Major duties of the team members include:

- (a) Participating in initial and on-going training and attending team meetings.
- (b) Completing projects and tasks as assigned by the Coordinator.
- (c) Maintaining information on referral services and stress management.
- (d) Conducting and assisting with defusing/debriefings, peer support sessions and providing referral information to employees.
- (e) Being alert for employees who could benefit from a service the team can offer
- (f) Providing liaison to other Department staff, the Police Chaplain program and allied agencies on CISM matters.
- (g) Protecting the confidentiality of CISM members as outlined in this policy.

### 1059.6.1 CISMT APPLICATION PROCESS

When there is an opening on the CISMT, the application process is open to all sworn and non-sworn department employees. Desirable qualities of the candidate includes:

- (a) Maturity.



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- (b) Demonstrated history of caring for the welfare of fellow employees.
- (c) Strong institutional knowledge.
- (d) Influence among their peer group.
- (e) Good listening skills.

The staffing strength of the team will be determined by the Command Staff.

Consistent with Department policy and other part-time specialty assignments, CISMT members will serve a minimum of two (2) years and a maximum of seven (7) years on the team.

### **1059.7 TRAINING PROGRAM AND SERVICE ASSIGNMENT**

- (a) CISMT members will attend basic and advanced CISM courses, as well as other specialty courses as assigned by the CISMT Coordinator.
- (b) Consistent with Policy and other part-time specialty assignments, team members will serve a minimum of 2 years and a maximum of 7 years on the team.
- (c) Consistent with Policy, team members may be removed from the team for conduct inconsistent with this program's policy and objectives. In particular, any violation of the program's confidentiality policy will be cause for removal from the team.

### **1059.8 CONFIDENTIALITY AND INTERNAL AFFAIRS**

#### 1059.8.1 CONFIDENTIALITY

Except as provided within this policy, CISMT members will maintain confidentiality of information obtained as part of their CISMT duties. Communication between a CISMT member and an employee is considered confidential except for specific circumstances as outlined below or as dictated by other law or policy.

- (a) Danger to self or others
- (b) Suspected child abuse or factual elder abuse.
- (c) Narcotic offenses (sales or transportation).
- (d) Domestic violence.
- (e) Where divulgence is requested by the employee.
- (f) Statements made during an Internal Affairs investigation. (See below)
- (g) Any incident where any local, State, or Federal rule, law, policy or protocol dictates the team member divulge information because of their status as a City of Palo Alto Employee, police officer, etc.

In the event of a concern or a question regarding confidentiality arises, the CISMT member will immediately contact the Team Coordinator.

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### 1059.8.2 INTERNAL AFFAIRS (IA) INVESTIGATIONS

(a) Intent

1. CISMT members may be called upon to assist an employee who is or becomes the subject of an internal affairs investigation. The CIMST member's role in that situation should be one of supporting the employee in managing the stress they are undergoing. CISMT members will not hamper or impede the IA investigations, nor will they attempt to shelter the individual from the Department's investigation. It is the intent of this policy that the internal Affairs Investigation will strive to preserve the confidentiality of interaction between the subject employee and a CISMT Member. It is also the intent that CISMT Members be skilled working with a subject without conflicting with the standard orders officers receive not to discuss the incident or investigation.

(b) Practice

1. In rare instances it may be necessary for Department IA investigators to compel a CISMT member to make a statement about a contact with an officer. The decision to do so will only be made after careful consideration and consultation. If an IA investigator intends to order a CISM team member to divulge information obtained as part of that team member's official capacity as a CIMST member, an advanced notification will be made to the Team Coordinator and Command Staff who will provide consultation to the Chief of Police. The Chief of Police will make the determination whether or not to issue an order to compel a statement from the CISMT Member.

(c) Other circumstances

1. In other circumstances, if a CISMT member feels a superior is directing them to divulge what they believe is confidential information not subject to divulgence, they should request that the Team Coordinator be contacted.

### **1059.9 CALL OUTS AND ACTIVATIONS**

#### 1059.9.1 AUTOMATIC DEFUSING AND DEBRIEFINGS

When an incident occurs that triggers an automatic defusing or debriefings, the CISMT Coordinator shall be notified by the Watch Commander, a department supervisor or with supervisory approval an on-duty CISMT member. The CISMT Coordinator or their designee will ensure the appropriate use of the team and facilitate proper CISMT staffing.

#### 1059.9.2 DISCRETIONARY DEFUSINGS OR DEBRIEFINGS AND ACTIVATIONS OUTSIDE OF PALO ALTO

Additionally, situations will arise that although they do not meet the mandatory trigger points as listed above, a defusing or debriefing or the use of the CISMT may be desirable. Palo Alto Police CISMT members may also be called upon to support other agencies. In any of these situations, any

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Department Supervisor, Command Staff Member, or CIMST member should contact the CISMT Coordinator or their designee with the request.

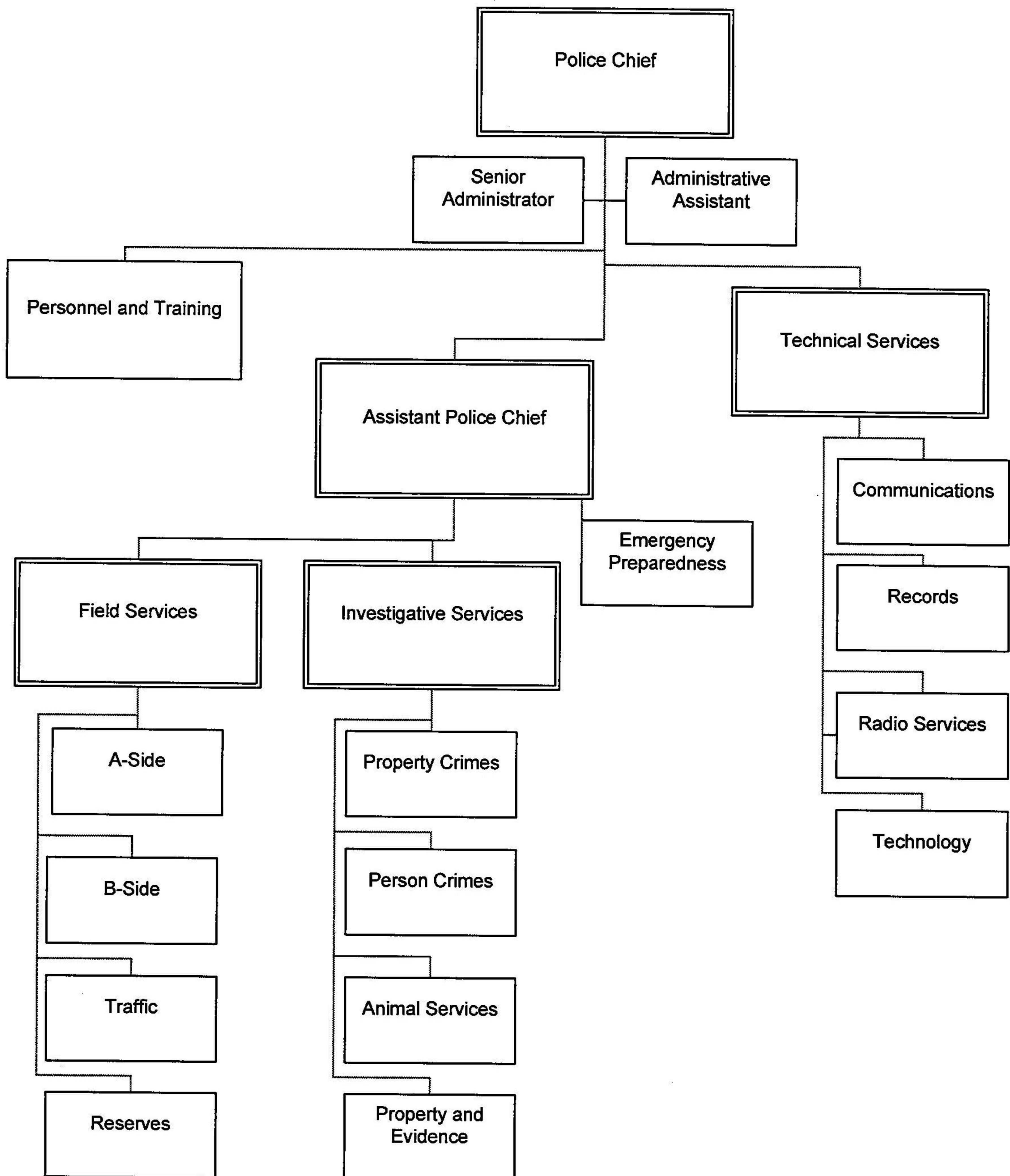
#### 1059.9.3 CISMT CALL-OUT STAFFING

The Team Coordinator or their designee will seek to use on-duty and uninvolved CIMST members to respond to the request. If no such team members are available, staffing does not allow or in particularly serious situations, off-duty team members may be called upon to respond.

## **Attachments**

**OrganizationChart-322.jpg**

# Palo Alto Organizational Chart



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