

Banning Police Department

Policy Manual

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

The Banning Police Department is committed to serve with honor and protect all citizens of our culturally diverse community, through a partnership focused on public trust and providing a safe environment for all.

DEPARTMENT VALUES:

We will perform our duties with honesty and be committed to ethical beliefs beyond reproach, in both conduct and performance.

We will be loyal and dedicated to our citizens and our Department co-workers while adhering to the Law Enforcement Code of Ethics.

Our professionalism will be demonstrated through our courteous and respectful treatment of others, remembering that we are entrusted with providing a safe environment to all citizens, regardless of their social or economic status.

We recognize that we must adhere to our principals to earn and retain the trust of the community, and therefore pledge to hold ourselves accountable to his commitment of excellence.

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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 agency are sworn to enforce the law and uphold the federal and state constitutions and the municipal laws of the City of Banning.

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 (Cal. Const. Art. 20, § 3; Government Code § 3102). The oath shall be as follows:

I, [employee name], do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

Policy Manual

106.1 PURPOSE AND SCOPE

The manual of the Banning Police Department is hereby established and shall be referred to as "The Policy Manual." The Policy Manual is a statement of the current policies, procedures, rules, and guidelines of this department. All employees are to conform to the provisions of this manual. All prior and existing manuals, orders, and regulations which are in conflict with this manual are revoked, except to the extent that portions of existing manuals, orders, and other regulations which have not been included herein shall remain in effect where they do not conflict with the provisions of this manual.

Except where otherwise expressly stated, the provisions of this manual shall be considered as guidelines. It is recognized, however, that police work 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.

106.1.1 DISCLAIMER

The provisions contained in this 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 Banning Police Department 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 employees. Violations of any provision of any policy contained within this manual shall only form the basis for departmental administrative action, training or discipline. The Banning Police Department Department reserves the right to revise any policy content, in whole or in part.

106.2 RESPONSIBILITIES

The ultimate responsibility for the contents of the manual rests with the Chief of Police. Since it is not practical for the Chief of Police to prepare and maintain the manual, the following delegations have been made:

106.2.1 CHIEF OF POLICE

The Chief of Police shall be considered the ultimate authority for the provisions of this manual and shall continue to issue General Orders which shall modify those provisions of the manual to which they pertain. General Orders shall remain in effect until such time as they may be permanently incorporated into the manual on an annual basis.

106.2.2 STAFF

Staff shall consist of the following:

- Chief of Police
- Lieutenants

The staff shall review all recommendations regarding proposed changes to the manual at staff meetings.

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106.2.3 OTHER PERSONNEL

All Department employees suggesting revision of the contents of the Policy Manual shall forward their suggestion, in writing, to their Division Lieutenant who will consider the recommendation and forward to staff.

106.3 FORMATTING CONVENTIONS FOR THE POLICY MANUAL

The purpose of this section is to provide examples of abbreviations and definitions used in this manual.

106.3.1 ACCEPTABLE ABBREVIATIONS

The following abbreviations are acceptable substitutions in the manual:

- General Orders may be abbreviated as "GO"
- Policy Manual sections may be abbreviated as "Section 106.X" or "§ 106.X"

106.3.2 DEFINITIONS

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

Adult - Any person 18 years of age or older.

CHP - The California Highway Patrol.

CFR - Code of Federal Regulations.

City - The City of Banning.

Department/BPD - The Banning 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 Banning Police Department Policy Manual.

May - Indicates a permissive, discretionary or conditional action.

Member - Any person who is employed or appointed by the Banning Police Department including sworn officers, reserve officers, non-sworn employees and volunteers.

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

Officer/Sworn - Those employees, regardless of rank, who are sworn employees of the Banning Police Department.

On-Duty - Employee 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.

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Rank - The job classification title 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.

USC - United States Code

106.3.3 DISTRIBUTION OF MANUAL

Copies of the Policy Manual shall be distributed to the following:

- Chief of Police
- Lieutenants
- Administrative Lieutenant
- Administrative Sergeant
- Personnel & Training Bureau
- Watch Commander
- Field Sergeant's Office
- Detective Bureau
- Officer's Report Room
- Temporary Holding Facility (15 CCR § 1029)

A computerized version of the Policy Manual will be made available on the Department network for access by all employees. The computerized version will be limited to viewing and printing of specific sections. No changes shall be made to the electronic version without authorization.

106.4 MANUAL ACCEPTANCE

As a condition of employment, all employees are required to read and obtain necessary clarification of this department's policies. All employees are required to sign a statement of receipt acknowledging that they have received a copy or have been provided access to the Policy Manual and understand they are responsible to read and become familiar with its contents.

106.4.1 REVISIONS TO POLICIES

All employees are responsible for keeping abreast of all Policy Manual revisions. All changes to the Policy Manual will be distributed Department wide in memorandum form. Each employee shall acknowledge receipt by signature.

Each Lieutenant and Sergeant will ensure that employees under his/her command are aware of any Policy Manual revisions.

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Chapter 2 - Organization and Administration

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 Banning Police Department. There are three divisions in the Police Department as follows:

- Administrative Support Division
- Field Operations Division
- Special Operations Division

200.2.1 ADMINISTRATIVE SUPPORT DIVISION

The Administrative Support Division consists of the Administrative Support Staff, Records, and Information Technology. General management direction and control of the Administrative Support Division is provided by a Lieutenant, as directed by the Chief of Police.

200.2.2 FIELD OPERATIONS DIVISION

The Field Operations Division consists of Uniformed Patrol, Traffic Bureau, and the Communication Center. General management direction and control of the Field Operations Division is provided by a Lieutenant, as directed by the Chief of Police.

200.2.3 SPECIAL OPERATIONS DIVISION

The Special Operations Division consists of the Detective Bureau and all Special Assignments. General management direction and control of the Special Operations Division is provided by a Lieutenant, as directed by the Chief of Police.

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 Commander to serve as the acting Chief of Police.

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

- (a) Administration Division Lieutenant
- (b) Investigation Division Lieutenant
- (c) Field Operations Division Lieutenant
- (d) On-duty Watch Commander

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Organizational Structure and Responsibility

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.

General Order

204.1 PURPOSE AND SCOPE

The purpose of this General Order is to clearly identify the Authority of General Orders and to recognize the term "General Order" as synonymous with the term "Policy" throughout this manual.

204.2 AUTHORITY OF GENERAL ORDERS

- (a) A General Order is a written order, issued by the Chief of Police, outlining a policy, procedure, rule or regulation regarding a matter that affects the entire Department or a portion thereof. General Orders are permanent directives and remain in full effect until amended or canceled by the Chief of Police.
- (b) General Orders and Departmental Policies, Procedures, Rules and Regulations are applicable to all members of the Department, whether salaried or not, who act for and on behalf of the Chief of Police.
- (c) State law and City Ordinances shall apply to the Department and the members where appropriate.
- (d) It is the responsibility of each member of the Department to be familiar with and knowledgeable of the General Orders, Departmental Policies, Procedures, Rules and Regulations and Directives. New members shall be familiar with and knowledgeable of the General Orders within fifteen (15) days after issuance and shall provide Police Administration with a written statement that they will read and understand the General Orders within (15) days after issuance.
- (e) It is the duty of each member to acquaint themselves with all new General Orders, policies, procedures, rules and regulations, and Directives of the Department.
- (f) It is the duty of each member to read and adhere to the to the City policies on Drug and Alcohol Abuse, Harassment, and Workplace Violence.
- (g) All General Orders, Departmental Policies, Procedures or Rules and Regulations, and Directives of the Department shall be presumed known and familiar to the member on the first working day after issuance.
- (h) Failure of any member to perform the duties of their rank or assignment, and/or the violation of any General Order or other Directive of the Department, may be considered sufficient cause for discharge, demotion, suspension, reduction in compensation or other Departmental discipline.
- (i) When a Policy Manual is issued to any member, it shall be the responsibility of the member to properly maintain the manual and keep it updated.
- (j) The term "General Order" is recognized as synonymous with the term "Policy" throughout this manual.

204.2.1 STAFF

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

204.2.2 CHIEF OF POLICE

The Chief of Police shall issue all General Orders.

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General Order

204.3 ACCEPTANCE OF GENERAL ORDERS

All employees are required to read and obtain any necessary clarification of all General Orders. All employees are required to acknowledge in writing the receipt and review of any new General Order or Departmental Directive. Signed acknowledgment forms and/or e-mail receipts showing an employee's acknowledgment will be maintained by the Department's Administration.

Departmental Communications - Written

205.1 PURPOSE AND SCOPE

The Department formally communicates with members by a system of General Orders, Departmental Directives, Special Orders and Departmental Memorandums. The issuing of a General Order, Departmental Directive, or a Special Order is reserved for the sole use and discretion of the Chief of Police.

205.2 NEW GENERAL ORDER

A New General Order establishes an inner-departmental communication that is 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. New General Orders will immediately modify or change and supersede sections of this manual to which they pertain.

- (a) New General Orders will be incorporated into the manual as required upon approval of Staff. Each year the New General Orders will modify existing policies or create a new policy as appropriate. Once the New General Order has been incorporated into the manual as policy, it will be rescinded.
- (b) New General Orders issued after publication of the manual shall be numbered consecutively starting with the last two digits of the year, followed by the number "1", etc. For example, 07-01 would be the first directive for 2007.
- (c) The Staff shall review and approve revisions of the manual, which will incorporate changes originally made by New General Orders.
- (d) The Chief of Police shall issue all New General Orders.

205.3 DEPARTMENT DIRECTIVE

A Department Directive is a written directive or communication issued by the Chief of Police, or at his direction, outlining or advising a policy or an operational procedure to be followed on a specific operation or topic. Department Directives may modify portions of the General Orders. A Department Directive is to be viewed as a direct order from the Chief of Police.

205.4 SPECIAL ORDER

A Special Order is an order issued by the Chief of Police, or at his direction, which affects any portion or all of the Department on a temporary basis for a specific incident or event. Special Orders are not permanent and cancel themselves when the specific incident or event passes. Special Orders are used for assignment of personnel to training or related activities.

205.5 DEPARTMENT MEMORANDUM

A Department Memorandum is a written communication issued by the Chief of Police or Lieutenant, or at their direction, advising announcements, suggestions or Department, Division, Station, Bureau, or Facility information on various topics or issues and can be directed outside the Department.

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Departmental Communications - Written

Any Department member may write a Department Memorandum or letter that is directed within the agency. Letters and memorandums that are addressed outside of the Department shall be signed by a Lieutenant or higher.

Disaster Plan

206.1 PURPOSE AND SCOPE

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

206.2 ACTIVATING THE EMERGENCY PLAN

The Emergency Management 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 Management Plan is activated, all employees of the Banning 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.

206.3 LOCATION OF THE PLAN

The Emergency Management Plan is available in Administration and the Watch Commander's office. All supervisors should familiarize themselves with the Emergency Management Plan. The Administration supervisor should ensure that department personnel are familiar with the roles police personnel will play when the plan is implemented.

206.4 UPDATING OF MANUALS

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

Training Policy

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 Banning Policed 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 Training Coordinator. It is the responsibility of the Training Coordinator to maintain, review, and update the training plan on an annual basis. The plan will address the following areas:

- State mandated training
- Federal mandated training
- Critical issues training

208.5 TRAINING NEEDS ASSESSMENT

The Training Section 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.

208.6 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

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Training Policy

- (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 Training Sergeant to attend the required training on an alternate date.

208.7 DAILY TRAINING BULLETINS

The Lexipol Daily Training Bulletins (DTBs) is a web-accessed system that provides training on the Banning Police Department Policy Manual and other important topics. Generally, one training bulletin is available for each day of the month. However, the number of DTBs may be adjusted by the Training Sergeant.

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

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

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

Electronic Mail

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 Commander. 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 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

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Electronic Mail

once per week. All messages in excess of one month will be deleted at regular intervals from the server computer.

Administrative Communications

214.1 PURPOSE AND SCOPE

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

214.2 ADMINISTRATIVE MEMORANDUMS

Memorandums 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 the letterhead and name of the Banning Police 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 the approval and signature of either the Chief of Police or Lieutenant.

214.4 SURVEYS

All surveys made in the name of the Department shall be authorized by the Chief of Police.

Staffing Levels

216.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that proper supervision is available for all shifts. The Department intends to balance the employee's needs against the need to have flexibility and discretion in using personnel to meet operational needs. While balance is desirable, the paramount concern is the need to meet operational requirements of the Department.

216.2 MINIMUM STAFFING LEVELS

One Watch Commander/Supervisor (Sergeant rank or higher) will be deployed during each patrol watch.

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)).

218.1.2 APPLICATION OF POLICY

Nothing in this policy shall preclude the Chief of Police from entering into an agreement with the Sheriff to process all applications and licenses for the carrying of concealed weapons (Penal Code § 12050(g)). Nothing in this policy shall be construed to require the Chief of Police to issue a concealed weapons license at any time. The issuance of any such license by the Chief Of Police shall only be pursuant to the terms and conditions of this policy and applicable law.

218.2 POLICY

The Banning 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 City of Banning (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.

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- (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).

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 Banning for a nonrefundable 20 percent of the application fee to cover the cost of processing the application (Penal Code § 26190).
 - 1. Additional fees may be required for fingerprinting, training or psychological testing, in addition to the application fee.
 - 2. Full payment of the remainder of the application fee will be required upon issuance of a license.
 - 3. Payment of related fees may be waived if the applicant is a duly appointed reserve peace officer as defined in Penal Code § 830.6 (a) or (b) (Penal Code § 26170).
- (c) The applicant shall be required to submit to fingerprinting and a complete criminal background check by the California DOJ. A second set of fingerprints may be required for retention in department files. Two recent passport-size photos (2 inches by 2 inches) of the applicant shall be submitted for department use. No person determined to fall within a prohibited class described in Penal Code § 29800, Penal Code § 29900, Welfare and Institutions Code § 8100 or Welfare and Institutions Code § 8103 will be issued a license to carry a firearm. A license shall not be issued if the California DOJ

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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 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).

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- (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 Banning (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).

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.

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- (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.
 - 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):

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- (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.
- (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.

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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.

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)).

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).

220.3 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.
- (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.

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 .

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- (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).
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.

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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.
 - (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.

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Chapter 3 - General Operations

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

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that reasonably 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.
- (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.

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- (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.
- (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.

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- (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.

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 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.

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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 an TASER device 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.

300.6 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

A supervisor shall 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.

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- (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.
 - 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, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- (h) Evaluate the circumstances surrounding the incident and should the supervisor suspect that any application of force was not within policy they shall contact their Division Lieutenant as soon as possible.
- (i) Submit a memorandum to the Division Lieutenant summarizing the use of force. which shall include information from listed sections (a) - (h).

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 LIEUTENANT RESPONSIBILITY

The Lieutenant 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.

Deadly Force Review

302.1 PURPOSE AND SCOPE

This policy establishes a process for the Banning 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 Banning 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 and the Chief of Police has authorized its assembly.

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 Division Commander, chosen by the Chief of Police, will convene the Use of Force Review Board as necessary.

It will be the responsibility of the supervisor of the involved employee to notify their appropriate Division Commander of any incidents requiring board review. The notified Division Commander shall have the responsibility of notifying the Chief of Police of the need for a Use of Force Board Review. The involved employee's Division Commander and 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 Use of Force Review Board shall be comprised of:

- The Chief's selected Division Commander
- One Sergeant
- One peer of the officer involved

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The senior ranking member will serve as chairperson. The chairperson will convene the Use of Force Review Board at the direction of the Chief of Police.

The Chief of Police has the discretion to relinquish the Use of Force Board's responsibilities to an outside agency.

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 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 Commander for review and appropriate action. If the Chief of Police concludes that discipline should be considered, a disciplinary process will be initiated.

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

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 Banning 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 Banning 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, waist chains or handcuffs behind the body.

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

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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 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

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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.
- (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

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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 AUTHORIZED RESTRAINT

Officers shall only use restraints approved by the Department.

306.9 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.

KINETIC ENERGY PROJECTILE GUIDELINES

307.1 PURPOSE AND SCOPE

This guideline addresses the training and use of extended range impact devices. The Police department recognizes the combative, non-compliant, or violent subjects cause handling and control problems that require special training and equipment. This department is committed to reducing the potential for violent confrontations. Thus, the department has adopted the use of these devices to assist with the de-escalation of these potentially 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.

307.1.1 DEPLOYMENT

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(s) determine that deployment of these munitions cannot be done safely. The safety of hostages, innocent third party citizens, and officers, takes priority over the safety of subjects engaged in criminal or suicidal behavior.

307.1.2 EXAMPLES OF CIRCUMSTANCES APPROPRIATE FOR DEPLOYMENT

Examples include, but are not limited to, the following types of situations where the subject:

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

307.2 DEFINITIONS

- (a) **Kinetic Energy Impact Projectiles (also referred to as "Extended Range Impact Ammunition)** - Flexible or non-flexible projectiles, which are intended to incapacitate a subject with a minimal potential for causing death or serious injury, when compared to conventional projectiles.
- (b) **Safety Priorities** - The department safety priorities are established as follows:
 - 1. Hostages
 - 2. Involved non-subject civilians
 - 3. Police Officers
 - 4. Suspects

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(c) **Subject** - The person who is the focus of the police operation.

307.3 PROCEDURE

307.3.1 EXTENDED RANGE IMPACT DEVICE

There are many projectiles used in extended range devices. The primary types used by the Banning Police Department are the Flexible Baton 12 gauge, and / or the Non-Flexible/Flexible -37/40 mm. Only Department approved kinetic energy munitions shall be carried and deployed.

307.3.2 TECHNICAL ASPECTS-KINETIC ENERGY IMPACT PROJECTILES

- (a) Flexible Baton -12 gauge
- (b) Non-Flexible or Flexible-37mm
- (c) Non-Flexible or Flexible-40mm

307.3.3 EVALUATION OF PROJECTILES

Kinetic energy impact projectiles will be evaluated on the following criteria:

- (a) Accuracy
- (b) Effectiveness
- (c) Potential for causing death or serious physical injury

307.3.4 ACCURACY

This is the primary consideration, since proper shot placement greatly assists in controlling the other two evaluation criteria. This will be evaluated and based on the anticipated ranges of deployment. A minimal standard of accuracy for such rounds is:

- (a) 12 inch group at 15 yards for the 12-gauge system.
- (b) 12 inch group at 25 yards for the 37 and 40 -mm systems.

This minimum standard is to be achieved from a secured rest.

307.3.5 EFFECTIVENESS

This is the potential of the round to cause incapacitation and reduce the subject's ability to continue their inappropriate behavior.

The level of energy necessary to cause incapacitation creates the potential for injury, but when properly deployed, there is a low-probability for causing serious physical injury or death.

307.3.6 POTENTIAL FOR CAUSING DEATH OR SERIOUS PHYSICAL INJURY

The potential for causing death or serious physical injury with such projectiles is a reality. This potential is greatly reduced when impacts to the head and neck are avoided, and when appropriate medical examination is provided in cases where the subject is struck in an area that might conceal a closed injury, including such areas as the chest, back, thoracic and abdominal cavities and the groin.

When engaging a target, the officer should evaluate the effectiveness of each round during the volley. Compliance and/or incapacitation is the desired goal, and alternative

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target areas/response considerations will be based on the circumstances the officer is encountering and the established department safety priorities.

307.3.7 DEPLOYMENT AREAS

The projectiles will be delivered to suspect target areas based on the circumstances, the established priorities, and the level of force authorized.

The PR-24 training chart is the recognized department model for determining contact areas for kinetic energy impact weapons, based on the potential for injury.

(a) Green Areas - These areas will be considered when incapacitation is necessary and minimal potential for injury is appropriate.

(b) Yellow/Red Areas - These areas will be considered when an escalation of force above green areas is necessary and appropriate acknowledging an increase in the potential for death or serious physical injury.

(c) Head/Neck - Intentional impacts to these areas will be avoided unless the use of deadly force is justified, necessary, and appropriate.

307.3.8 DEPLOYMENT DISTANCES AND CONSIDERATIONS

Before discharging projectiles, the officer should consider the following factors:

- (a) Severity of the crime or incident,
- (b) Subject's capability to pose an imminent threat to the safety of officers or others,
- (c) If the subject is actively resisting arrest or attempting to evade arrest by flight,
- (d) The credibility of the subject's threat as evaluated by the officers present and physical capability,
- (e) The proximity of weapons available to the subject,
- (f) The officer's versus the subject's physical factors (i.e., age, size, relative strength, skill level, injury/exhaustion, the number of officer(s) versus subject(s),
- (g) The availability of other force options and their possible effectiveness,
- (h) Distances and angle to target,
- (i) Type of munitions employed,
- (j) Type of thickness of subject's clothing,
- (k) The subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.
- (l) Officers will keep in mind the manufacturer's recommendations regarding deployment when using kinetic energy projectile devices, but are not solely restricted to use according to these manufacturer recommendations. Each tactical situation must be evaluated on the totality of the circumstances at the time of deployment.
- (m) The subject's proximity to others,
- (n) The location of the subject,

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

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307.3.9 SHOT PLACEMENT

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.

Officers should generally follow the manufacturer's recommendations regarding minimum deployment distances and target areas however any target area or distance may be considered when it reasonably appears necessary to accomplish immediate incapacitation in order to prevent serious injury or death and other reasonable methods have failed or reasonably appear ineffective.

307.4 DEPLOYMENT TECHNIQUES FOR 12 GAUGE

- (a) **Dedicated System**- The issued shotgun will be dedicated to extended range impact projectiles, and marked in some fashion consistent with such designation. Officers assigned will disassemble such weapons, and visually/physically inspect the chamber and magazine, each time the weapon comes under their control (beginning of shift, and/or any time the weapon was out of their direct control), to ensure the total absence of non-extended range impact ammunition.
- (b) **Transition System** - When a qualified officer transitions the weapon from lethal to extended range impact ammunition, the following procedures shall be preformed. The officer is solely responsible for the condition of the weapon (lethal vs. extended range impact ammunition). Absent compelling circumstances, officers who must transition from conventional ammunition to extended range impact ammunition will employ the two person rule for loading. The two person rule is a safety measure achieved by having a second officer watch the loading process to ensure that the weapon is completely emptied of conventional ammunition.
 - 1. All duty ammunition will be removed from the weapon and remain under the control of the officer.
 - 2. The officer will visually and physically inspect the chamber and magazine to insure that all duty ammunition is removed from the shotgun. The officer will then load the extended range impact rounds into the shotgun.
 - 3. Visually inspecting each round prior to insertion, ensuring that each round is in fact an extended range impact round.
- (c) Before using either the dedicated or transitional delivery system, the officer shall consider:
 - 1. The level of force being confronted
 - 2. The proximity/access of subject to officer
 - 3. The department safety priorities
- (d) The officer will then determine if lethal cover is necessary and appropriate. Special consideration of lethal cover should be made in all cases involving subjects with firearms.

307.5 DEPLOYMENT TECHNIQUES FOR 37 AND 40 MILLIMETER

The Watch Commander and the department's Emergency Tactical Unit will maintain all 37 and 40-millimeter extended range impact delivery systems. This system will be deployed with a lethal cover officer in circumstances consistent with:

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- (a) The level of force being confronted
- (b) The proximity/access of subject to officer
- (c) The department safety priorities

307.6 HANDLING OF INJURED SUSPECTS

Suspects who are struck by extended range impact projectiles shall be transported to medical facility for examination.

307.7 REPORTING USE OF KINETIC ENERGY PROJECTILES

Any member who accidentally or intentionally deploys an extended range impact device listed within this section shall make a verbal notification to the on-duty Watch Commander as soon as possible and document the application pursuant to Policy Manual § 300.4 and 300.5.

307.8 TRAINING

The Training Manager shall ensure that all personnel who are authorized to carry a Kinetic Energy Projectile device have been properly trained and certified to carry the device and are retrained or re-certified as necessary.

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

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.

308.1.1 REQUIRED CONTROL DEVICE DEPLOYMENT

Uniformed officers working patrol or any uniformed assignment shall carry on their equipment belt an authorized baton/ASP and a working canister of oleoresin capsicum spray.

308.2 POLICY

In order to control subjects who are violent or who demonstrate the intent to be violent, the Banning 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 Rangemaster 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 Rangemaster 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

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

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

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 Emergency Tactical 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.

During Emergency Tactical Unit operations, ETU members are authorized to deploy tear gas without seeking prior approval from the previously listed supervisors while still 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.

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.

308.7.1 OC SPRAY

Uniformed personnel carrying OC spray shall carry the device in its holster on the equipment belt. 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.

308.7.2 PEPPER PROJECTILE SYSTEMS

The Pepper Projectile Launcher is intended for use in those situations where physical contact to control a violent or potentially violent subject is likely and the use of force is authorized pursuant to existing department policy.

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- (a) Program Coordinator - A sergeant will be designated as the program coordinator. The program coordinator's responsibilities shall include the following:
 - 1. Inspection and maintenance of all program related equipment;
 - 2. Inventory and ordering of equipment and supplies;
 - 3. Maintaining training records related to the program;
 - 4. Training all sworn personnel in the use and deployment of the Pepper Projectile Launcher system.
 - 5. Maintain the air supply for refilling all Pepper Projectile Launcher systems.
 - 6. Each scuba tank must be visually inspected by a certified scuba shop every year and must be hydrostatically tested every five years.
 - 7. Each tank should contain at least 2000 psi.

- (b) Launchers
 - 1. The launchers shall be stored within the station between shifts and employees authorized to carry the weapon will sign out the equipment at the beginning of their shift.

- (c) Projectiles
 - 1. The only projectiles to be used in the Pepper Projectile Launchers are those approved by the department range staff and only designated Pepper Projectile Launchers are to be used to fire the projectiles.
 - 2. There are several different types of projectiles for the Pepper Projectile Launcher. Only two types of projectiles will be utilized by the Banning Police Department, as follows:
 - (a) Red OC Powder filled These projectiles are red in color and contain a mixture of powdered OC and talcum powder. When utilizing the OC-filled projectiles, personnel should take weather conditions into consideration. Even a moderate amount of wind may dissipate the OC before it is effective, or may blow the OC back toward officers. Rainy conditions may also limit the effectiveness of these projectiles and not all projectiles will break on impact.
 - (b) Purple Training rounds- This "inert" projectile is purple in color and is filled with talcum powder. These projectiles are for training purposes and are not for use in the field. These projectiles are not to be stored with the launcher and shall not be carried in the field.

- (d) Deployment
 - 1. Officers encountering a situation that warrants the use of a pepper projectile system shall notify a supervisor as soon as practical.
 - 2. A supervisor shall respond to all pepper projectile system deployments where the suspect has been hit. The supervisor shall ensure that all notifications and reports are completed as required by the Use of Force Policy.
 - 3. Whenever possible, the supervisor in control of the incident should not be the individual using the Pepper Projectile Launcher. The intent of this suggestion is that the employee responsible for control of the incident remains as a supervisor and decision-maker. For this reason, supervisors should delegate the Pepper Projectile Launcher deployment to a trained employee.

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4. Employees who are authorized to carry the Pepperball Launcher in their patrol unit shall note the launcher number on the watch commander log. The employee is responsible for inspecting the equipment at the beginning of his/her shift. The inspection should include:
 - (a) The high-pressure air tank should be charged to between 2000 and 3000 psi and should be free from visible damage.
 - (b) The tank shall be attached to the launcher with the on/off knob in the off position.
 - (c) The launcher should be free from visible damage and shall have no projectiles in the chamber. The launcher's projectile hopper should be filled with red OC-filled projectiles.
 5. The launcher and related equipment are to be secured in the supplied case. The case should also be checked for visible damage. It is important that the launcher and attachments be stored in the case to prevent damage.
- (e) Use
1. The Pepper Projectile Launcher may be used under the following circumstances:
 - (a) When a subject exhibits violent or potentially violent behavior that threatens the safety of others and attempts to subdue the subject by conventional means of persuasion, escort control, self-defense techniques and/or pain compliance measures have not been or reasonably appear unlikely to be effective, or;
 - (b) To defend one's self or another from an aggressive or attacking animal, or;
 - (c) Crowd control/disbursement in civil disobedience situations.
- (f) When the decision is made to use the Pepper Projectile Launcher, the following factors shall be taken into consideration:
1. Whenever possible, at least one other officer should be present and in close proximity at a scene before the Pepper Projectile Launcher is deployed in order to provide lethal cover if it becomes necessary.
 2. Whenever possible, verbal warnings shall be given to the target subject before using the Pepper Projectile Launcher.
 3. Whenever possible, other law enforcement personnel present should be alerted to the imminent use of the Pepper Projectile Launcher
 4. "Proximity" shots may be fired near a subject to either deploy a cloud of OC powder, or to encourage the subject to comply with directives without actually striking the subject with projectiles.
 5. Proximity shots can be fired near the subject's feet or near other portions of the subject's body if a hard surface is present for impact of the projectiles. Extreme caution must be taken to prevent unintentionally striking the subject in the head, neck, spine and groin.
 6. The projectiles are not likely to ricochet off hard surfaces with sufficient energy to cause injury.
 7. If it becomes necessary to fire projectiles at a subject, it may be necessary to fire multiple shots to achieve compliance. Personnel firing at a subject should

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continuously reassess whether or not compliance has been achieved or the situation has changed.

8. Shot placement of pepper projectiles shall be consistent with instruction provided through the department approved training program with the understanding the potential exists for the projectiles to inflict injury if they strike the head, neck, spine or groin. Therefore, officers deploying the pepper projectile launcher should not intentionally target those areas, except when the officer reasonably believes the individual may cause serious bodily injury or death to the officer or others.

(g) Follow-up Medical Treatment

1. Following the use of the Pepper Projectile Launcher, an immediate assessment shall be made to ensure that no injuries have been sustained. If injuries have occurred, appropriate medical treatment shall be obtained.

(h) Decontamination

1. Decontamination of a subject who has been exposed to powdered OC is the same as for a subject who has been exposed to aerosol OC. CDF shall be contacted and requested to assist with the decontamination that will consist of flushing the eyes with eye wash or water. The steps taken to decontaminate the subject shall be documented in the criminal report prepared following the incident.
2. Since not all Pepperball projectiles will break when fired at a subject, care should be taken to check the area around where the Pepper Projectile Launcher was deployed to make sure no unbroken rounds remain that could be picked up by the general public. Unbroken Pepperball rounds should never be placed back into a Pepper Projectile Launcher. Simply step on the unbroken round and render it useless.

(i) Reporting

1. Photographs shall be taken of any injury sustained by a subject after the injuries have been evaluated, treated (if necessary), and cleaned. The photographs and/or film shall be logged into evidence under the criminal report file number.
2. The following information shall be included in the crime report:
 - (a) Approximate number of rounds fired
 - (b) Number of impacts on the subject
 - (c) The distance between the subject and engaging officer at the time of deployment
 - (d) Any injuries and medical treatment provided
 - (e) Any third party contamination or impact
3. Each deployment of a pepper projectile system shall be documented. Accidental discharges shall be promptly reported to a supervisor and documented appropriately. Only non-incident deployments, such as training and product demonstrations, are exempt from the reporting requirements.

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308.7.3 TREATMENT FOR OC SPRAY EXPOSURE

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

308.8 TRAINING FOR CONTROL DEVICES

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

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

308.9 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.

Electronic Control Device Guidelines

309.1 PURPOSE AND SCOPE

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

309.2 POLICY

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

309.3 ISSUANCE AND CARRYING TASER DEVICES

Only members who have successfully completed department-approved training may be issued and carry the TASER device.

TASER devices are issued for use during a member's current assignment. Those leaving a particular assignment may be required to return the device to the department's inventory.

Officers shall only use the TASER device and cartridges that have been issued by the Department. Uniformed officers who have been issued the TASER device shall wear the device in an approved holster on their person. Non-uniformed officers may secure the TASER device in the driver's compartment of their vehicle.

Members carrying the TASER device should perform a spark test on the unit prior to every shift.

Additionally, prior to every shift, members carrying the Taser shall conduct a Video system check to ensure it is working. If the video system provided with the Taser is inoperable, the device is not to be deployed or utilized. The officer shall notify the Department Armor of inoperable video unit systems as soon as possible.

When carried while in uniform officers shall carry the TASER device in a weak-side holster on the side opposite the duty weapon.

- (a) All TASER devices shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.
- (b) Whenever practicable, officers should carry two or more cartridges on their person when carrying the TASER device.
- (c) Officers shall be responsible for ensuring that their issued TASER device is properly maintained and in good working order.
- (d) Officers should not hold both a firearm and the TASER device at the same time.

309.4 VERBAL AND VISUAL WARNINGS

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

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

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If, after a verbal warning, an individual is unwilling to voluntarily comply with an officer's lawful orders and it appears both reasonable and feasible under the circumstances, the officer may, but is not required to, display the electrical arc (provided that a cartridge has not been loaded into the device), or the laser in a further attempt to gain compliance prior to the application of the TASER device. 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 or other warning was given or the reasons it was not given shall be documented by the officer deploying the TASER device in the related report.

309.4.1 MAINTENANCE/ CARE/ DATA PORT TRACKING AND TRAINING

The primary responsibility for maintaining and caring for the Electronic Control Device Weapon shall rest with the department Armorer or designee. The department Armorer or designee shall:

- (a) Log and track all Electronic Control Device Weapon and munitions.
- (b) If there is a significant difference between the download data/video information found, the Department Armorer is required to review the actual police report of the discharge and advise the officer's watch commander of any discrepancies.
 1. The Department Armorer in conjunction with his/her duties shall perform random audit downloads and/or video of department issued Electronic Control Device Weapon's, the audit will also consist of the functioning of the device as well as, testing and checking for abuse of the Electronic Control Device Weapon devices.
- (c) Order and maintain adequate munitions and maintenance supplies.
- (d) Conduct inspections of the Electronic Control Device Weapon.

309.5 USE OF THE TASER DEVICE

The TASER device has limitations and restrictions requiring consideration before its use. The TASER device should only be used when its operator can safely approach the subject within the operational range of the device. Although the TASER device 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.

309.5.1 APPLICATION OF THE TASER DEVICE

The TASER device may be used in any of the following circumstances, when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person:

- (a) The subject is violent or is physically resisting.
- (b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, him/herself or others.

Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the TASER device to apprehend an individual.

309.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the TASER device on certain individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear

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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 using the device. This includes:

- (a) Individuals who are known to be pregnant.
- (b) Elderly individuals or obvious juveniles.
- (c) Individuals with obviously low body mass.
- (d) Individuals who are handcuffed or otherwise restrained.
- (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 (e.g., falls from height, operating vehicles).

Because the application of the TASER device in the drive-stun mode (i.e., direct contact without probes) relies primarily on pain compliance, the use of the drive-stun mode generally should be limited to supplementing the probe-mode to complete the circuit, or as a distraction technique to gain separation between officers and the subject, thereby giving officers time and distance to consider other force options or actions.

The TASER device shall not be used to psychologically torment, elicit statements or to punish any individual.

309.5.3 TARGETING CONSIDERATIONS

Reasonable efforts should be made to target lower center mass and avoid the head, neck, chest and groin. If the dynamics of a situation or officer safety do not permit the officer to limit the application of the TASER device probes to a precise target area, officers should monitor the condition of the subject if one or more probes strikes the head, neck, chest or groin until the subject is examined by paramedics or other medical personnel.

309.5.4 MULTIPLE APPLICATIONS OF THE TASER DEVICE

Officers should apply the TASER device for only one standard cycle and then evaluate the situation before applying any subsequent cycles. Multiple applications of the TASER device against a single individual are generally not recommended and should be avoided unless the officer reasonably believes that the need to control the individual outweighs the potentially increased risk posed by multiple applications.

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

- (a) Whether 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 effective.

Officers should generally not intentionally apply more than one TASER device at a time against a single subject.

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309.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Officers shall notify a supervisor of all TASER device discharges. Confetti tags should be collected and the expended cartridge, along with both probes and wire, should be 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.

309.5.6 DANGEROUS ANIMALS

The TASER device 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 to human safety and alternative methods are not reasonably available or would likely be ineffective.

309.5.7 TASER® CAM™

The TASER CAM is activated any time the safety is in the off position. The safety should be in the safe position unless the officer intends to use the device. Because the TASER CAM memory is limited, the video and audio data should be downloaded frequently and retained as required by the department records retention schedule.

309.5.8 OFF-DUTY CONSIDERATIONS

Officers are not authorized to carry department TASER devices while off-duty.

Officers shall ensure that TASER devices are secured while in their homes, vehicles or any other area under their control, in a manner that will keep the device inaccessible to others.

309.6 DOCUMENTATION

Officers shall document all TASER device discharges in the related arrest/crime report. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. A copy of the police report will be forwarded to the appropriate Division Commander of the deploying officer(s) along with a copy of the device's video of the deployment. Upon review of the incident report and video, the Division Commander shall forward the information to the Chief of Police.

Unintentional discharges will be documented in memo form and forwarded to administration for review.

309.6.1 REPORTS

The officer should include the following in the arrest/crime report:

- (a) Identification of all personnel firing TASER devices
- (b) Identification of all witnesses
- (c) Medical care provided to the subject
- (d) Observations of the subject's physical and physiological actions
- (e) Any known or suspected drug use, intoxication or other medical problems

309.7 MEDICAL TREATMENT

Consistent with local medical personnel protocols and absent extenuating circumstances, only appropriate medical personnel should remove TASER device probes from a person's body. Used TASER device probes shall be treated as a sharps biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.

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All persons who have been struck by TASER device probes or who have been subjected to the electric discharge of the device shall be medically assessed prior to booking. Additionally, any such individual who falls under any of the following categories should, as soon as practicable, be examined by paramedics or other qualified medical personnel:

- (a) The person is suspected of being under the influence of controlled substances and/or alcohol.
- (b) The person may be pregnant.
- (c) The person reasonably appears to be in need of medical attention.
- (d) The TASER device probes are lodged in a sensitive area (e.g., groin, female breast, head, face, neck).
- (e) The person requests medical treatment.

Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications (i.e., more than 15 seconds) shall be transported to a medical facility for examination or medically evaluated prior to booking. 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.

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

309.8 SUPERVISOR RESPONSIBILITIES

When possible, supervisors should respond to calls when they reasonably believe there is a likelihood the TASER device may be used. A supervisor should respond to all incidents where the TASER device was activated.

A supervisor should review each incident where a person has been exposed to an activation of the TASER device. The device's onboard memory should be downloaded through the data port by a supervisor or Rangemaster and saved with the related arrest/crime report. Photographs of probe sites should be taken and witnesses interviewed.

Supervisors shall comply with "Supervisor Responsibility" under § 300.7.

Supervisors shall download the audio/video information from the Taser CAM into the Watch Commander's computer. Supervisors will ensure the audio/video from the Taser CAM was successfully downloaded. Supervisors shall make a copy of the incident onto a CD and ensure the transfer was complete. The CD shall be booked into evidence and listed on the incident report.

309.9 TRAINING

Personnel who are authorized to carry the TASER device shall be permitted to do so only after successfully completing the initial department-approved training. Any personnel who have not carried the TASER device as a part of their assignment for a period of six months or more shall be recertified by a department-approved TASER device instructor prior to again carrying or using the device.

Proficiency training for personnel who have been issued TASER devices 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 Training Sergeant. All training and proficiency for TASER devices will be documented in the officer's training file.

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

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

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

Application of TASER devices during training could result in injury to personnel and should not be mandatory for certification.

The Training Sergeant 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 or cross-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 device and transitioning to other force options.
- (f) De-escalation techniques.
- (g) Restraint techniques that do not impair respiration following the application of the TASER device.

Officer-Involved Shooting

310.1 PURPOSE AND SCOPE

The intent of this policy is to establish policy and procedures for the investigation of an incident in which a person is injured as the result of a police shooting and to ensure that such incidents be investigated in a fair and impartial manner.

310.2 INVESTIGATION RESPONSIBILITY

This Department conforms to the Riverside County Law Enforcement Association Agreement on the protocol for investigating officer-involved shootings.

310.3 TYPES OF INVESTIGATIONS

Officer-involved shootings involve several separate investigations. The investigations may include:

- (a) A criminal investigation of the incident by the agency having jurisdiction where the incident occurred. This department may relinquish its criminal investigation to an outside agency with the approval of the Chief of Police or a Division Lieutenant.
- (b) A criminal investigation of the involved officer(s) conducted by an outside agency
- (c) A civil investigation to determine potential liability conducted by the involved officer's agency
- (d) An administrative investigation conducted by the involved officer's agency, to determine if there were any violations of department policy

310.4 JURISDICTION

Jurisdiction is determined by the location of the shooting and the agency employing the involved officer(s). The following scenarios outline the jurisdictional responsibilities for investigating officer-involved shootings:

310.4.1 BANNING POLICE DEPARTMENT OFFICER WITHIN THIS JURISDICTION

The Banning Police Department is responsible for the criminal investigation of the suspect's actions, the civil investigation, and the administrative investigation. The criminal investigation of the officer's actions will be conducted by the Banning Police Department or the Riverside County District Attorney's Office, or other persons or entity at the discretion of the Chief of Police. The Chief of Police has the discretion to relinquish all or a portion of the Banning Police Department's responsibilities to an outside agency.

310.4.2 ALLIED AGENCY'S OFFICER WITHIN THIS JURISDICTION

The Banning Police Department is responsible for the criminal investigation of the suspect's actions. The criminal investigation of the officer-involved shooting will be conducted by the District Attorney's Office. The officer's employing agency will be responsible for any civil and/or administrative investigation(s). The Chief of Police has the discretion to relinquish all or a portion of the Banning Police Department's responsibilities to an outside agency.

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310.4.3 BANNING OFFICER IN ANOTHER JURISDICTION

The agency where the incident occurred has criminal jurisdiction and is responsible for the criminal investigation of the incident. That agency may relinquish its criminal investigation of the suspect(s) to another agency. The Banning Police Department will conduct timely civil and/or administrative investigations. The Chief of Police has the discretion to relinquish all or a portion of the Banning Police Department's responsibilities to an outside agency.

310.4.4 INVESTIGATION RESPONSIBILITY MATRIX

The following table identifies the possible scenarios and responsibilities for the investigation of officer-involved shootings:

	Criminal Investigation of Suspect(s)	Criminal Investigation of Officer(s)	Civil Investigation	Administrative Investigation
BPD Officer in This Jurisdiction	BPD Investigators	Banning PD or District Attorney's Office	BPD Civil Liability Team	BPD Professional Standards Unit
Allied Agency's Officer in This Jurisdiction	BPD Investigators	District Attorney's Office	Involved Officer's Department	Involved Officer's Department
BPD Officer in Another Jurisdiction	Agency where incident occurred	Decision made by agency where incident occurred	BPD Civil Liability Team	BPD Professional Standards Unit

310.5 THE INVESTIGATION PROCESS

The following procedures are guidelines used in the investigation of an officer-involved shooting.

310.5.1 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 Dispatch. 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. An Officer's weapon should only be taken from the officer by the Investigator handling the shooting investigation for evidence purposes, the officer will then be provided with a comparable replacement weapon.

310.5.2 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 Lieutenant.

310.5.3 NOTIFICATIONS

The following person(s) shall be notified as soon as practical:

- Chief of Police
- Special Operations Division Lieutenant
- Administrative Support Division Lieutenant
- Field Operations Division Lieutenant
- District Attorney OIS Roll out Team
- City Manager
- City Risk Manager
- Officer Representative (if requested)

All outside inquiries about the incident shall be directed to the Watch Commander.

310.5.4 MEDIA RELATIONS

A single press release shall be prepared with input and concurrence from the supervisor and agency representative responsible for each phase of the investigation. This release will be available to the Watch Commander, Investigation Division Commander and Press Information Officer in the event of inquiries from the media.

It will be the policy of this department to not release the identities of involved officers absent their consent or as required by law. Moreover, no involved officer shall be subjected to contact from the media (Government Code § 3303(e)) and no involved officer shall make any comments to the press unless authorized by the Chief of Police or a Lieutenant.

Law enforcement officials receiving inquiries regarding incidents occurring in other agency jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.

310.5.5 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:

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- (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.

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.

310.6 THE SHOOTING INCIDENT CRIMINAL INVESTIGATION

310.6.1 DETECTIVE PERSONNEL

Once notified of an officer involved shooting, it shall be the responsibility of the Special Operations Division Lieutenant to assign appropriate detective personnel to handle the department's investigation of related crimes. Departmental detectives will be assigned to work with investigators from the District Attorney's Office and may also be assigned to separately handle the investigation of any related crimes not being investigated by the District Attorney's Office.

All related departmental reports except administrative and/or privileged reports will be forwarded to one 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 Lieutenant.

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310.6.2 CRIMINAL INVESTIGATION

It shall be the policy of this department to utilize the District Attorney's Office to conduct an independent criminal investigation into the circumstances of any officer-involved shooting involving injury or death.

If available, detective personnel from this department may be assigned to partner with investigators from the District Attorney's Office so as to not duplicate efforts in related criminal investigations.

Once public safety issues have been addressed, criminal investigators will be given the next opportunity to interview involved officers in order to provide them with an opportunity to give a voluntary statement. The following shall be considered for the involved officer:

- (a) Supervisors and Professional Standards Unit personnel should not participate directly in any voluntary interview of officers. This will not prohibit such personnel from monitoring such interviews or indirectly providing areas for inquiry.
- (b) If requested, any involved officer will be afforded the opportunity to consult individually with a representative of his/her choosing or an attorney, prior to speaking with criminal investigators. 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.
- (c) Any voluntary statement provided by the officer(s) will be made available for inclusion in the administrative or other related investigations.
- (d) Absent consent from the involved officer or as required by law, no administratively coerced statement(s) will be provided to any criminal investigators.

310.6.3 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.

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.

310.6.4 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.

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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.

310.7 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 Professional Standards 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))
- (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,

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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 Professional Standards 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 Deadly Force Review Board, which will restrict its findings as to whether there was compliance with the Department use of deadly force policy.
8. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

310.8 AUDIO AND VIDEO RECORDINGS

Any officer involved in an incident may be permitted to review available Mobile Audio Video (MAV) or other video or audio recordings prior to providing a recorded statement or completing reports.

Upon request, non-law enforcement witnesses who are able to verify their presence and their ability to contemporaneously perceive events at the scene of an incident may also be permitted to review available MAV or other video or audio recordings with approval of assigned investigators or a supervisor.

Any MAV and other known video or audio recordings of an incident should not be publicly released during an ongoing investigation without consulting the District Attorney or City Attorney's Office as appropriate.

Firearms

312.1 PURPOSE AND SCOPE

This policy establishes procedures for the acquisition, use, and documentation of training in the use of firearms. The Chief of Police or his or her designee shall approve all Department firearms before they are acquired and utilized by any member of this department.

312.2 AUTHORIZED WEAPONS

No firearms will be carried that have not been thoroughly inspected by the Rangemaster during a regularly scheduled range date. Except in an emergency or as directed by a supervisor, no firearm shall be carried by a member who has not qualified with that weapon at an authorized department range.

All other weapons, including but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by personnel in the performance of their official duty without the express written authorization of the employee's Division Commander. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

312.2.1 DUTY WEAPONS

The Department issued weapons are the Glock model 22 or 23, 40 caliber semi-automatic handgun and the Sig Saur P226, 9mm semi-automatic handgun. Department personnel may also carry personally purchased firearms that have been approved by the Department.

Other than the authorized duty handgun, the Department maintains and/or issues weapons for specialized applications, only those personnel who have received training and or have been authorized to use them by the Department may use the weapons. These weapons will only be used in those situations as dictated by Department Policy, the Chief of Police or his/her designee. This includes:

- (a) Shotguns
- (b) Patrol Rifles
- (c) Submachine guns
- (d) Optic/scoped firearms
- (e) Chemical weapons delivery firearms
- (f) Extended Range Impact Devices
- (g) Pepperball guns

312.2.2 AUTHORIZED SECONDARY FIREARM

Officers desiring to carry a secondary firearm are subject to the following restrictions:

- (a) The firearm shall be in good working order and on the department's list of approved firearms.
- (b) Only one secondary firearm may be carried at a time.
- (c) The purchase of the firearm and ammunition shall be the responsibility of the officer.

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- (d) The firearm shall be carried out of sight at all times and in such a manner as to prevent accidental cocking, discharge or loss of physical control.
- (e) The firearm shall be inspected by the Rangemaster prior to being carried and thereafter shall be subject to inspection whenever deemed necessary.
- (f) Ammunition shall be the same as department issue. If the caliber of the firearm is other than department issue, the Chief of Police shall approve the ammunition.
- (g) Prior to carrying the secondary firearm, personnel shall qualify under range supervision and thereafter shall qualify in accordance with the department qualification schedule. Officers must demonstrate proficiency and safe handling, and that the firearm functions properly.
- (h) Personnel shall provide written notice of the make, model, color, serial number, and caliber of a second firearm to the Rangemaster.

312.2.3 AUTHORIZED OFF-DUTY FIREARM

The carrying of firearms by sworn officers while off-duty is permitted by the Chief of Police but may be rescinded should circumstances dictate (e.g., administrative leave). Sworn officers who choose to carry a firearm while off-duty, based on their authority as a peace officer, will be required to meet the following guidelines:

- (a) The firearm shall be of good quality and workmanship and approved by the Department.
- (b) The purchase of the firearm and ammunition shall be the responsibility of the officer.
- (c) The firearm shall be carried concealed at all times and in such a manner as to prevent accidental cocking, discharge, or loss of physical control.
- (d) It will be the responsibility of the officer to submit the firearm to the Range-master for inspection prior to being carried. Thereafter the firearm shall be subject to periodic inspection by the Range-master.
- (e) Prior to carrying any off-duty firearm, the officer shall demonstrate to the Range-master that he/she is proficient in handling and firing the firearm and that it will be carried in a safe manner.
- (f) The officer will successfully qualify with the firearm prior to it being carried and thereafter once annually. The range qualification dates will be specified by the Range-master.
- (g) A complete description of the firearm shall be contained on the qualification record approved by the Range-master.
- (h) If any member desires to use more than one firearm while off-duty, he/she may do so, as long as the officer meets all the requirements set forth in this policy for each firearm used.
- (i) Officers shall only carry department-authorized ammunition.
- (j) When armed, whether on- or off-duty, officers shall carry their badge and department identification.

312.2.4 AMMUNITION

- (a) On-duty - Ammunition carried on duty shall meet with Department approval
- (b) Off-duty - No ammunition other than new factory shall be carried off-duty. Factory reloads are prohibited.

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Officers shall be issued fresh duty ammunition in the specified quantity for all department issued firearms during the officer's first scheduled qualification each year. Officers carrying personally owned authorized firearms of a caliber differing from department issued firearms shall be responsible for obtaining fresh duty ammunition in accordance with the above at their own expense. Replacements for unserviceable or depleted ammunition issued by the Department shall be dispensed by the Rangemaster when needed in accordance with established policy.

312.2.5 ALCOHOL AND DRUGS

Weapons shall not be carried by any officer who has consumed any amount of an alcoholic beverage or taken any drug that would tend to adversely affect the officer's senses or judgment.

312.2.6 LASER SIGHTS

Laser sights may only be installed on a weapon carried on or off-duty after they have been examined and approved by the Rangemaster.

- (a) Any approved laser sight shall only be installed in strict accordance with manufacturer specifications.
- (b) Once approved laser sights have been properly installed on any weapon, the officer shall qualify with the weapon to ensure proper functionality and sighting of the weapon prior to carrying it.

Except in an approved training situation, an officer may only activate a laser sight when the officer would otherwise be justified in pointing a weapon at an individual or other authorized target.

312.3 SAFE HANDLING OF FIREARMS

The intent of this policy is to promote proper firearm safety on and off duty. Employees shall maintain the highest level of safety when handling firearms and shall consider the following:

312.3.1 SAFETY CONSIDERATIONS

- (a) Officers shall not unnecessarily display or handle any firearm.
- (b) Officers shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Rangemaster. Officers shall not dry fire or practice quick draws except under Rangemaster supervision.
- (c) Officers shall not clean, repair, load or unload a firearm anywhere in the Department, except where clearing barrels are present.
- (d) Shotguns or rifles removed from vehicles or the equipment storage room shall be loaded and unloaded in the parking lot and outside of the vehicle.
- (e) Officers shall not place or store any firearm or other weapon on Department premises except where the place of storage is locked.
- (f) Officers shall not use any automatic weapon, heavy caliber rifle, gas or other type of chemical weapon from the armory, except with approval of a supervisor.
- (g) Any weapon authorized by the department to be carried on- or off-duty, that is found by the officer to be malfunctioning or needing service, shall not be carried. It shall be promptly presented to the department or Rangemaster for inspection. Any weapon determined to be in need of service or repair during an inspection by the department Rangemaster, will be immediately removed from service. If the weapon is the officer's

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primary duty weapon, a replacement weapon will be issued to the officer until the duty weapon is serviceable.

312.3.2 STORAGE OF FIREARMS AT HOME

Officers shall ensure that all firearms and ammunition are locked and secured while in their homes, vehicles or any other area under their control in a manner that will keep them inaccessible to children and irresponsible adults.

Officers shall be aware that negligent storage of a firearm could result in criminal prosecution under Penal Code § 25100.

312.3.3 WEAPONS IN TAKE HOME DEPARTMENT VEHICLES

Sworn officers with take-home department vehicles shall secure department issued weapons inside of their residence to prevent weapons from being stolen. If the take-home vehicle is parked inside a locked garage, then it is not necessary to remove the weapons from the vehicle. Storage of firearms inside of the residence shall be in compliance with Penal Code § 12035 and 12036.

312.4 FIREARMS QUALIFICATIONS

All sworn personnel are required to qualify quarterly with their duty weapon and annually with their off-duty weapon and secondary weapon on an approved range course. The Rangemaster shall keep accurate records of quarterly qualifications, repairs, maintenance, training or as directed by the Training Sergeant. In addition to regular qualification schedules, the Rangemaster shall be responsible for providing all sworn personnel with annual practical training designed to simulate field situations. At least annually, all personnel carrying a firearm will receive training on the department Use of Force policy and demonstrate their knowledge and understanding.

312.4.1 NON QUALIFICATION

If any officer is unable to qualify for any reason, including injury, illness, duty status, scheduling conflict, that officer shall notify their immediate supervisor prior to the end of the required shooting period. It will be the officer's responsibility to reschedule the training with the Range staff.

Members who repeatedly fail to qualify will be relieved from field assignment and appropriate disciplinary action may result as follows:

- (a) Remedial training and qualification attempts with a maximum allowed being a total of three
- (b) Failure to qualify after remedial training and qualification attempts may result discipline up to and including termination

312.5 WARNING AND OTHER SHOTS

Generally, warning shots or shots fired for the purpose of summoning aid are discouraged and may not be discharged unless the officer reasonably believes that they appear necessary, effective and reasonably safe.

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312.6 DESTRUCTION OF ANIMALS

Officers are authorized to use firearms to stop an animal in circumstances where the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

In circumstances in which officers have sufficient advance notice that a potentially dangerous animal may be encountered, officers should develop reasonable contingency plans for dealing with the animal (e.g., fire extinguisher, TASER device, oleoresin capsicum (OC) spray, animal control officer). Nothing in this policy shall prohibit any officer from shooting a dangerous animal if circumstances reasonably dictate that a contingency plan has failed or becomes impractical.

312.6.1 INJURED ANIMALS

With the approval of a supervisor, an officer may euthanize an animal that is so badly injured that human compassion requires its removal from further suffering and where other dispositions are impractical (Penal Code § 597.1(e)). Injured animals (with the exception of dogs and cats) may only be euthanized after a reasonable search to locate the owner has been made (Penal Code § 597.1(b)). Injured dogs and cats found without their owners shall be taken to an appropriate veterinarian for determination of whether they should be treated or humanely destroyed.

312.7 REPORT OF FIREARM DISCHARGE

Any member who discharges a weapon accidentally or intentionally, on or off-duty, except during training or recreational use, shall immediately make a verbal report to the on-duty supervisor by the fastest method possible and shall file a written report with their Lieutenant prior to the end of shift if on-duty and it off-duty, as directed by the on-duty supervisor.

All discharges of a firearm by any member of the Department shall be investigated to determine if the shooting is within the law and Department policy.

If an uninvolved Department member has knowledge of an unreported shooting incident they shall report the known facts to a supervisor.

Upon receipt of information regarding a Department member involved shooting, a supervisor shall respond to the scene of the incident and assume control of the scene. If the shooting is outside the City of Banning, the supervisor shall request a courtesy report to be completed by the appropriate jurisdiction in which the shooting occurred. If the jurisdiction cannot provide a report, the supervisor shall contact the Department's Detective Bureau Supervisor to respond and complete an investigation into the shooting.

After obtaining the initial information regarding a Department member involved shooting, a supervisor shall immediately notify the involved employee's Lieutenant and the Chief of Police.

312.8 RANGEMASTER DUTIES

The range will be under the exclusive control of the Rangemaster. All members attending will follow the directions of the Rangemaster. The Rangemaster will maintain a roster of all members attending the range and will submit the roster to the Training Sergeant after each range date. Failure of any officer to sign in and out with the Rangemaster may result in non-qualification.

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The range shall remain operational and accessible to Department members during hours established by the Department.

The Rangemaster has the responsibility of making periodic inspection, at least once a year, of all duty weapons carried by officers of this department to verify proper operation. The Rangemaster has the authority to deem any privately owned weapon unfit for service. The officer will be responsible for all repairs to his or her personal weapon and it will not be returned to service until inspected by the Rangemaster.

312.9 MAINTENANCE AND REPAIR

Firearms carried on duty shall be maintained in a clean, serviceable condition. Since the use of personally owned weapons is at the option of the individual officer, that officer will be responsible for the furnishing, maintenance and repair of such weapon.

312.9.1 REPAIR OR MODIFICATIONS OF DUTY WEAPONS

The Rangemaster shall be the only person authorized to repair or modify any department-owned weapon. All repairs and/or modifications of department issued weapons not performed by the Rangemaster must be approved in advance by the Rangemaster and accomplished by a department approved gunsmith.

Any repairs or modifications to the officer's personally owned weapon shall be done at his or her expense and must be approved by the Rangemaster.

312.10 FLYING WHILE ARMED

The Transportation Security Administration (TSA) has imposed rules governing law enforcement officers flying armed on commercial aircraft. The following requirements apply to personnel who intend to be armed while flying on a commercial air carrier or flights where screening is conducted (49 CFR 1544.219):

- (a) Officers wishing to fly while armed must be flying in an official capacity, not for vacation or pleasure purposes.
- (b) Officers must carry their Department identification card which must contain a full-face picture, the officer's signature and the signature of the Chief of Police or the official seal of the Department and must present this identification to airline officials when requested. The officer should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver's license, passport).
- (c) The Banning Police Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the officer's travel. If approved, TSA will send the Banning Police Department an NLETS message containing a unique alphanumeric identifier. The officer must present the message to airport personnel as authorization to travel while armed on the day of travel.
- (d) An official letter signed by the Chief of Police authorizing armed travel must accompany the officer. The letter must outline the officer's need to fly armed, must detail his/her itinerary, and should include that the officer has completed the mandatory TSA training for law enforcement officer flying while armed.
- (e) Officers must have completed the mandated TSA security training covering officers flying while armed. The training shall be given by the department-appointed instructor.
- (f) It is the officer's responsibility to notify the air carrier in advance of the intended armed travel. This notification can be accomplished by early check-in at the carrier's check-in counter.

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- (g) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The officers must keep the firearm concealed on his/her person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.
- (h) Officers should not surrender their firearm but should try to resolve any problems through the flight captain, ground security manager or other management representative of the air carrier.
- (i) Officers shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

312.11 CARRYING FIREARMS OUT OF STATE

Qualified active full-time officers and qualified retired officers (see Policy Manual § 220) of this department are authorized to carry a concealed firearm in all other states subject to the following conditions (18 USC 926B and C):

- (a) The officer shall carry his/her Department identification card whenever carrying such weapon.
- (b) Qualified retired officers shall also carry certification of having met firearms qualification within the past 12 months.
- (c) The officer is not the subject of any current disciplinary action.
- (d) The officer may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.
- (e) The officer will remain subject to this and all other Department policies (including qualifying and training).

Officers are cautioned that individual states may enact local regulations that permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property, or that prohibit or restrict the possession of firearms on any state or local government property, installation, building, base or park. Federal authority may not shield an officer from arrest and prosecution in such locally restricted areas.

Visiting active and retired peace officers from other states are subject to all requirements set forth in 18 USC 926B and C.

AR-15 Rifles

313.1 PURPOSE AND SCOPE

To establish guidelines for the carrying of the AR-15 rifle in order to more effectively and accurately address the increasing level of fire power and body armor utilized by criminal suspects. The Banning Police Department will make the AR-15 rifle available to qualified officers as an additional and more immediate tactical resource. The AR-15 caliber shall be a .223. These rifles shall not be altered in any manner, other than the addition of a department approved scope, sling, lighting and magazines.

313.2 PROCEDURE

The AR-15 rifle is a specialized type of firearm and it takes training to become proficient with this firearm. The AR-15 rifle can also be an added asset in rural settings or in situations where suspects are also armed with shoulder fired weapons (i.e. assault rifles). Before any officer will be allowed to be equipped with an AR-15 rifle they will be required to pass a department qualification course of fire.

313.3 GUIDELINES

Department AR-15 rifles will be checked out prior to each shift and checked in at the end of each shift by the Watch Commander. Extra ammunition and magazines (three for each weapon) will be carried in the unit and will be checked in and out with the weapon. Each weapon will be equipped with a shoulder sling.

The department will supply duty ammunition and magazines for the AR-15 rifle. Personal ammunition or personal magazines will not be carried unless approved by the department range staff and the Chief of Police. Magazines will be of the box fed, spring loaded type with a 10, 20, or 30 round capacity.

313.3.1 WHEN THE AR-15 CAN BE USED

Officers may deploy the AR-15 rifle in any circumstance where the officer can articulate a reasonable expectation that the weapon may be needed. Examples of some general guidelines for deploying the patrol rifle may include, but are not limited to:

- (a) Situations where the officer reasonably anticipates an armed encounter.
- (b) When an officer is faced with a situation which may require the delivery of accurate and effective fire at long range.
- (c) Situations where an officer reasonably expects the need to meet or exceed a suspect's firepower.
- (d) When an officer reasonably believes that there may be a need to deliver fire on a barricaded suspect or a suspect with a hostage.
- (e) When an officer reasonably believes that a suspect may be wearing body armor.
- (f) During search warrants or other high-risk situations when approved by the supervisor in charge.
- (g) In rural searches for possible dangerous or armed suspect(s).
- (h) When authorized or requested by a supervisor.

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AR-15 Rifles

- (i) When needed to euthanize an animal and with prior approval by the on-duty Watch Commander.

313.3.2 WHEN THE AR-15 SHOULD NOT BE USED

The Watch Commander shall have the discretion to deviate from these guidelines as not all situations in law enforcement are the same. There may be a situation that arises that is not covered under these guidelines, and it would be the Watch Commander's responsibility to decide if the AR-15 rifle is to be used. Generally, the AR-15 rifle should not be used in the following situations:

- (a) For the purpose of intimidation, such as crowd control.
- (b) Urban environment during non-violent crimes.
- (c) Unarmed / non-violent misdemeanor confrontations.
- (d) Building searches, such as residences, small businesses or locations with confined quarters.

Additionally, Watch Commanders shall have the discretion to deviate from these guidelines as not all situations in law enforcement are the same. There may be a situation that arises that is not covered under these guidelines, and it would be the Watch Commander's responsibility to decide if the AR-15 rifle is to be used.

313.4 AR-15 RIFLE MAINTENANCE

- (a) Primary responsibility for maintenance of department owned AR-15 shall be the responsibility of the Department Range Master or Armorer who shall inspect and service each AR-15 rifle each Firearms Qualification Day (every three months).
- (b) Each patrol officer carrying an AR-15 rifle may be required to field strip and clean the weapon as needed.
- (c) Each patrol officer shall be responsible for promptly reporting any damage or malfunction of an assigned weapon.
- (d) Each weapon shall be subject to inspection by a supervisor, the Department Range Master or Armorer at any time.
- (e) No modification shall be made to any AR-15 rifle without prior written authorization from the Department Range Master or Armorer.
- (f) Any patrol rifle found to be unservicable shall be removed from service. The rifle shall be clearly labeled as "out of service" and details regarding the weapon's condition shall be included on the label.

313.5 TRAINING

Before an officer can be authorized to carry an AR-15 rifle, they will be required to show a working knowledge of the weapon both in the areas of safety and proficiency and pass the following department course of fire:

- (a) Shooters Choice (kneeling or standing) 10 rounds at 10 yards in 10 seconds.
- (b) Shooters Choice (kneeling or standing) 10 rounds at 20 yards in 15 seconds.
- (c) Shooters Choice (kneeling or standing) 10 rounds at 30 yards in 20 seconds

Total of 30 rounds will be expended. This course of fire will be fired on the department standard qualification target, with a pass/fail score given by the range staff. This course of fire shall be fired and passed twice a year.

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AR-15 Rifles

313.6 DISCHARGE OF THE AR-15 RIFLE

The discharge of the AR-15 rifle shall be governed by the Department's Deadly Force Policy, § 300.

313.7 PATROL READY

Any qualified officer carrying an AR-15 in the field shall maintain the weapon in the "patrol ready" condition until deployed when needed. After deployment the AR-15 shall be checked and placed back into the "patrol ready" condition before it is secured back into the vehicle. A rifle is considered "patrol ready" when it has been inspected by the assigned officer and meets the following conditions:

- (a) There is no round in the chamber.
- (b) The rifle bolt is forward with the hammer down.
- (c) The rifle safety is on.
- (d) There is a fully loaded magazine in the rifle with no more than 28 rounds.
- (e) The dust cover is closed.
- (f) The rifle is stored in the locked patrol vehicle's rifle rack or trunk.

The AR-15 may be carried in unmarked units, secured in the trunk portion of the vehicle. The rifle is not to remain in the trunk of an unmarked unit over night. Officers who are assigned take home vehicles shall not leave the weapon in their vehicles over night.

313.8 PURCHASE OF THE AR-15 BY INDIVIDUAL OFFICERS

AR-15 rifles registered to the Banning Police Department, but purchased by individual officers, will become the property of that officer when he or she is separated from the Banning Police Department. This will include retirement, lateral transfers or termination for any reason. Federal Law provides an exception for assault weapons that are registered to a Law Enforcement Agency and are transferred by the agency to an officer upon the officer's retirement from or termination of his or her employment with the agency. (18 USC 922 Unlawful Acts Section (v)(1)(4) Paragraph (1)(A) (C)).

Vehicle Pursuit Policy

314.1 PURPOSE AND SCOPE

Pursuits of suspected or known violators of the law expose innocent citizens, law enforcement officers and fleeing violators to serious injury or death. The primary purpose of this policy is to provide officers guidance in balancing the safety of the public and themselves against law enforcement's duty to apprehend violators of the law. Another purpose of this policy is to reduce and minimize the potential for pursuit related accidents. Vehicular pursuits require officers to exhibit a high degree of common sense and sound judgment. Officers must not forget that the immediate apprehension of a suspect is generally not more important than the safety of the public and pursuing officers.

Deciding whether to pursue a motor vehicle is a critical decision that must be made quickly and under difficult and unpredictable circumstances. In recognizing the potential risk to public safety created by vehicular pursuits, no officer or supervisor shall be criticized or disciplined for deciding not to engage in a vehicular pursuit because of the risk involved. This includes circumstances where Department policy would permit the initiation or continuation of the pursuit. It is recognized that vehicular pursuit situations are not always predictable and decisions made pursuant to this policy will be evaluated according to the totality of the circumstances reasonably available at the time of the pursuit.

Officers must remember that the most important factors to the successful conclusion of a pursuit are proper self-discipline and sound professional judgment. Officers' conduct during the course of a pursuit must be objectively reasonable; that is, what a reasonable officer would do under the circumstances. An unreasonable individual's desire to apprehend a fleeing suspect at all costs has no place in professional law enforcement.

314.1.1 VEHICLE PURSUIT DEFINED

A vehicle pursuit is an event involving one or more law enforcement officers attempting to apprehend a suspect, who is attempting to avoid arrest while operating a motor vehicle by using high-speed driving or other evasive tactics, such as driving off a highway, turning suddenly, or driving in a legal manner but willfully failing to yield to an officer's signal to stop.

314.1.2 FAILURE TO YIELD

Refers to the actions of a vehicle operator who fails to stop or respond to the emergency light(s) and siren of a law enforcement vehicle. Generally, the vehicle operator continues to travel forward at or below the speed limit, observes applicable rules of the road and does not change the direction of travel in an evasive manner.

314.1.3 VEHICLE PURSUIT POLICY OBJECTIVES

The following is the Department policy for pursuits involving vehicles and other specialized craft. The objectives are:

- (a) To prevent injury or death to Officers, innocent citizens and suspected violators from pursuits, and;
- (b) To apprehend a suspected violator and to minimize the threat to public safety as a result of the pursuit, and;

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(c) To reduce the likelihood of force being used against a suspected law violator due to a communication breakdown.

314.1.4 RESERVE OFFICERS IN PURSUITS

Level III Reserve Police Officers shall not operate a Department vehicle in emergency response or pursuit modes. Level I and Level II Reserve Officers may operate a Department vehicle in emergency response or pursuit modes as follows:

(a) Level I Reserve Police Officer in compliance with existing policy manual for a full-time police officer.

(b) Level II Reserve Police Officer only accompanied by a full-time police officer in compliance with the existing policy manual.

314.2 OFFICER RESPONSIBILITIES

It shall be the policy of this department that a motor vehicle pursuit shall be conducted only with red light and siren as required by Vehicle Code § 21055 for exemption from compliance with the rules of the road. The following policy is established to provide officers with guidelines for driving with due regard and caution for the safety of all persons using the highway as required by Vehicle Code § 21056. All officers involved in pursuits are required to use both lights and sirens operated continuously while using safe driving techniques with regard for safety of all persons.

The emergency response or pursuit operation of a vehicle is limited to sworn staff. Classified employees shall not operate a vehicle in an emergency response or pursuit.

314.2.1 FACTORS TO CONSIDER IN INITIATING OR CONTINUING PURSUIT

Officers are authorized to initiate a pursuit when they have reasonable cause to believe that a person in or on a motor vehicle has committed a felony offense or the driver is operating the motor vehicle under the influence of alcohol and/or drugs and attempts to evade arrest or detention by fleeing in a vehicle.

The following factors individually and collectively shall be considered in deciding whether to initiate or continue a pursuit:

- (a) Seriousness of the known or reasonably suspected crime and its relationship to community safety.
- (b) The importance of protecting the public and balancing the known or reasonably suspected offense and the apparent need for immediate capture against the risks to officers, innocent motorists and others.
- (c) Apparent nature of the fleeing suspect(s) (e.g., whether the suspect(s) represent a serious threat to public safety).
- (d) The identity of the suspect(s) has been verified and there is comparatively minimal risk in allowing the suspect(s) to be apprehended at a later time.
- (e) Safety of the public in the area of the pursuit, including the type of area, time of day, the amount of vehicular and pedestrian traffic and the speed of the pursuit relative to these factors.
- (f) Pursuing officer(s) familiarity with the area of the pursuit, the quality of radio communications between the pursuing units and the dispatcher/supervisor and the driving capabilities of the pursuing officers under the conditions of the pursuit.

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- (g) Weather, traffic and road conditions that substantially increase the danger of the pursuit beyond the worth of apprehending the suspect.
- (h) Performance capabilities of the vehicles used in the pursuit in relation to the speeds and other conditions of the pursuit.
- (i) Vehicle speeds.
- (j) Other persons in or on the pursued vehicle (e.g., passengers, co-offenders and hostages).
- (k) Availability of other resources such as helicopter assistance.
- (l) The police unit is carrying passengers other than police officers. (A pursuit shall not be undertaken with a prisoner(s) or other civilians including, but not limited to Volunteers, Explorer Scouts, or Ride-a-longs in the officer's unit.)

314.2.2 WHEN TO TERMINATE A PURSUIT

Pursuits should be discontinued whenever the totality of objective circumstances known or which reasonably ought to be known to the officer or supervisor during the pursuit indicates that the present risks of continuing the pursuit reasonably appear to outweigh the risks resulting from the suspect's escape.

The factors listed in § 314.2.1 of this policy are expressly included herein and will apply equally to the decision to discontinue as well as the decision to initiate a pursuit. Officers and supervisors must objectively and continuously weigh the seriousness of the offense against the potential danger to innocent motorists and themselves when electing to continue a pursuit. In the context of this policy, the term "terminate" shall be construed to mean discontinue or to stop chasing the fleeing vehicle.

In addition to the factors listed in § 314.2.1 of this policy, the following factors should also be considered in deciding whether to terminate a pursuit:

- (a) Distance between the pursuing officers and the fleeing vehicle is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time and/or distance.
- (b) Pursued vehicle's location is no longer definitely known.
- (c) Officer's pursuit vehicle sustains any type of damage that could render it unsafe to drive.
- (d) Extended pursuits of violators for misdemeanors not involving violence or risk of serious harm (independent of the pursuit) are discouraged.
- (e) There are hazards to uninvolved bystanders or motorists.
- (f) If the identity of the offender is known and it does not reasonably appear that the need for immediate capture outweighs the risks associated with continuing the pursuit, officers should strongly consider discontinuing the pursuit and apprehending the offender at a later time.
- (g) Pursuit is terminated by a supervisor.

314.2.3 SPEED LIMITS

The speed of a pursuit is a factor that should be evaluated on a continuing basis by the officer and supervisor. Evaluation of vehicle speeds shall take into consideration public safety, officer safety and the safety of the occupants of the fleeing vehicle.

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Should high vehicle speeds be reached during a pursuit, officers and supervisors shall also consider these factors when determining the reasonableness of the speed of the pursuit:

- (a) Pursuit speeds have become unreasonably unsafe for the surrounding conditions.
- (b) Pursuit speeds have exceeded the driving ability of the officer.
- (c) Pursuit speeds are beyond the capabilities of the pursuit vehicle thus making its operation unsafe.

314.3 PURSUIT UNITS

Pursuit units should be limited to two vehicles (excluding supervisors and K-9 units with supervisor approval); however, the number of units involved will vary with the circumstances. An officer or supervisor may request additional units to join a pursuit if, after assessing the factors outlined above, it appears that the number of officers involved would be insufficient to safely arrest the suspect(s). All other officers should stay out of the pursuit, but should remain alert to its progress and location. Only emergency radio traffic will be permitted. If available, a supervisor should join in and maintain supervisory control of the pursuit. Any officer who drops out of a pursuit may then, if necessary, proceed to the termination point at legal speeds, following the appropriate rules of the road.

314.3.1 MOTORCYCLE OFFICER AND UNMARKED UNITS

A distinctively marked patrol vehicle equipped with emergency overhead lighting should replace a police motorcycle and/or unmarked unit with emergency equipment as primary and/or secondary pursuit unit as soon as practical. In the event that such a unit is unavailable, a distinctively marked patrol vehicle or "stealth" vehicle equipped with emergency lights and siren should replace a motorcycle unit until a unit with overhead emergency lights can replace it. The motor unit and/or unmarked unit with emergency equipment may then proceed to the termination point of the pursuit at a legal speed unless directed otherwise.

314.3.2 NON-EMERGENCY VEHICLES OR PRIVATE VEHICLES

Vehicles not equipped with red light and siren are generally prohibited from initiating or joining in any pursuit. Officer(s) in such vehicles, however, may become involved in emergency activities involving serious crimes or life threatening situations. Those officers shall terminate their involvement in any pursuit immediately upon arrival of a sufficient number of emergency police vehicles or any police helicopter. The exemptions provided by Vehicle Code § 21055 do not apply to officers using vehicles without emergency equipment.

PRIVATE VEHICLES

All personnel in private vehicles shall not engage in pursuits of violator vehicles. This includes using driving tactics such as exceeding the speed limit, passing on the right, failure to stop at stop signs, etc., while observing the suspect vehicles. This policy does not preclude following violators or suspect vehicles within the confines of the law in order to obtain a license number and/or description, and/or until such time as a marked unit is observed and is able to make a proper stop.

The seriousness of a known crime that has occurred may dictate a different course of action than outlined above. A serious and/or violent crime may be cause for some deviation. The use of good judgment and discretion is necessary in determining when these procedures may be deviated from. The exemptions provided by Vehicle Code § 21055 do not apply to officers using vehicles without emergency equipment.

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314.3.3 PRIMARY UNIT RESPONSIBILITIES

The initial pursuing unit will be designated as the primary pursuit unit and will be responsible for the conduct of the pursuit unless it is unable to remain reasonably close enough to the violator's vehicle. The primary responsibility of the officer initiating the pursuit is the apprehension of the suspect(s) without unreasonable danger to themselves or other persons.

A critical, on-going responsibility of the primary pursuing unit is to determine whether or not to continue the pursuit.

Officers intending to stop a vehicle should be within close proximity to the violator's vehicle before activating the red lights and attempting to stop. This will reduce the violator's temptation to evade police contact. The initiating officer shall immediately notify Dispatch that a vehicle pursuit has been initiated and request authorization from a supervisor to continue, giving the following information:

- (a) Reason for the pursuit.
- (b) Location and direction of travel.
- (c) Speed of the fleeing vehicle.
- (d) Description of the fleeing vehicle and license number, if known.
- (e) Number of known occupants.
- (f) The identity or description of the known occupants.
- (g) Information concerning the use of firearms, threat of force, injuries, hostages or other unusual hazards.
- (h) The weather / road conditions.
- (i) As soon as possible, the initiating officer should inform Dispatch if assistance from any allied agency will be necessary.
- (j) The initiating officer may, at his or her discretion, immediately notify Dispatch that the pursuit has been discontinued, and Dispatch will pass this information on to the allied agencies and the affected Watch Commander.
- (k) The officer in the primary pursuit unit shall assume command at the termination point of the pursuit, unless relieved by a supervisor.
- (l) Unless relieved by a supervisor or secondary unit, the officer in the primary unit shall be responsible for the broadcasting of the progress of the pursuit. Unless practical circumstances indicate otherwise, and in order to concentrate on pursuit driving, the primary officer should relinquish the responsibility of broadcasting the progress of the pursuit to a secondary unit or aircraft joining the pursuit.
- (m) If the pursued vehicle is lost, the primary unit should broadcast pertinent information to assist other units in locating the suspects. The primary unit will be responsible for coordinating any further search for either vehicle or suspects fleeing on foot.

314.3.4 SECONDARY UNIT(S) RESPONSIBILITIES

The second officer in the pursuit is responsible for the following:

- (a) The officer in the secondary unit should immediately notify the dispatcher of entry into the pursuit
- (b) Remain a safe distance behind the primary unit unless directed to assume the role of primary officer, or if the primary unit is unable to continue the pursuit assume the role of primary

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- (c) The secondary officer should be responsible for broadcasting the progress of the pursuit unless the situation indicates otherwise

314.3.5 PURSUIT DRIVING TACTICS

The decision to use specific driving tactics requires the same assessment of considerations outlined in the factors to be considered concerning pursuit initiation and termination. The following are tactics for units involved in the pursuit:

- (a) Officers, considering their driving skills and vehicle performance capabilities, will space themselves from other involved vehicles such that they are able to see and avoid hazards or react safely to maneuvers by the fleeing vehicle.
- (b) Because intersections can present increased risks, the following tactics should be considered:
 - 1. Available units not directly involved in the pursuit may proceed safely to controlled intersections ahead of the pursuit in an effort to warn cross traffic.
 - 2. Pursuing units should exercise due caution when proceeding through controlled intersections.
- (c) As a general rule, officers should not pursue a vehicle driving left of center (wrong way) on a freeway. In the event that the pursued vehicle does so, the following tactics should be considered:
 - 1. Requesting assistance from an air unit.
 - 2. Maintaining visual contact with the pursued vehicle by paralleling it on the correct side of the roadway.
 - 3. Requesting other units to observe exits available to the suspects.
- (d) Notifying the California Highway Patrol (CHP) and/or other jurisdictional agency if it appears that the pursuit may enter their jurisdiction.
- (e) Officers involved in a pursuit should not attempt to pass other units unless the situation indicates otherwise or they are requested to do so by the primary unit.

314.3.6 TACTICS/PROCEDURES FOR UNITS NOT INVOLVED IN THE PURSUIT

There should be no paralleling of the pursuit route. Officers are authorized to use emergency equipment at intersections along the pursuit path to clear intersections of vehicular and pedestrian traffic to protect the public. Officers should remain in their assigned area and should not become involved with the pursuit unless directed otherwise by a supervisor.

Non-pursuing personnel needed at the termination of the pursuit should respond in a non-emergency manner, observing the rules of the road.

The primary and secondary units should be the only units operating under emergency conditions (red light **and** siren) unless other units are assigned to the pursuit.

314.3.7 PURSUIT TRAILING

In the event the initiating unit from this agency either relinquishes control of the pursuit to another unit or jurisdiction, that initiating unit may, with permission of a supervisor, trail the pursuit to the termination point in order to provide necessary information and assistance for the arrest of the suspects.

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The term trail means to follow the path of the pursuit at a safe speed while obeying all traffic laws and without activating emergency equipment. If the pursuit is at a slow rate of speed, the trailing unit will maintain sufficient distance from the pursuit units so as to clearly indicate an absence of participation in the pursuit.

314.3.8 AIRCRAFT ASSISTANCE

When available, aircraft assistance should be requested. Once the air unit has established visual contact with the pursued vehicle, it should assume control over the pursuit. The primary and secondary ground units should consider the participation of aircraft assistance when determining whether to continue the pursuit.

The air unit should coordinate the activities of resources on the ground, report progress of the pursuit and provide officers and supervisors with details of upcoming traffic congestion, road hazards, or other pertinent information to evaluate whether or not to continue the pursuit. If ground units are not within visual contact and the air unit determines that it is unsafe to continue the pursuit, the air unit has the authority to terminate the pursuit.

314.3.9 OPTION "BREAK AWAY" PROCEDURE

The purpose of this procedure is to provide a pre-planned alternative to continued pursuits, where aircraft are in position to continue to observe the suspect. The procedure can be invoked at the discretion of the pursuing ground units or by the supervisor controlling the pursuit. The gravity of the known violations, Departmental policy and other risk factors should be weighed prior to invoking this procedure.

AIRCRAFT "BREAK AWAY" PROCEDURES

Initial assessment. Once overhead, direct reliable communication between the aircraft and pursuing units shall be established. The aircraft crew shall evaluate their ability to continue surveillance based based on fuel-on-board, weather, direction and speed involved, and other appropriate factors.

Radio notification. When appropriate conditions as outlined in paragraph "1" above (Purpose Statement) exist, the aircraft crew will notify ground units they are in position to invoke "Break Away" option. This notification will be accomplished utilizing the radio notification "Break Away option available." If "Break Away" procedures are not invoked by the ground units, the aircraft will continue to provide only those services requested.

GROUND UNIT "BREAK AWAY" PROCEDURES

(a) Decision to invoke "Break Away." Ground units receiving the notification "Break Away option available" shall have the discretion to:

(b) Based on the circumstances, advise the aircraft that "Break Away" procedures will not be utilized, or;

(c) Initiate "Break Away" procedures.

Initiating "Break Away" procedures. Pursuing ground units will initiate the procedure with the order, "All units break away." All pursuing ground units will discontinue ground pursuit and will terminate Code 3 operations. The aircraft will continue surveillance of the suspect vehicle, advising appropriate agencies of the continued movement of the suspect vehicle. However, they should avoid any actions that could alert the suspect to the aircraft's continuing surveillance.

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Pursuit/surveillance termination. Wherever possible, the aircraft will notify available ground units in the vicinity when the suspect(s) abandon the vehicle. The aircraft will advise arriving units of the circumstances involved and request assistance in apprehending the suspect(s). The originating unit may continue in the direction of the surveillance, or return to its jurisdiction, at the discretion of the supervisor. Once the surveillance is terminated, the originating agency should be advised of the results and allowed the opportunity to respond to the termination point and assume control of any apprehended suspect(s).

314.4 SUPERVISORY CONTROL AND RESPONSIBILITY

It is the policy of this department that available supervisory and management control will be exercised over all motor vehicle pursuits involving officers from this department.

The field supervisor of the officer initiating the pursuit, or if unavailable, the nearest field supervisor will be responsible for the following:

- (a) Upon becoming aware of a pursuit, immediately ascertaining all reasonably available information to continuously assess the situation and risk factors associated with the pursuit in order to ensure that the pursuit is conducted within established department guidelines.
- (b) Engaging in the pursuit, when appropriate, to provide on-scene supervision.
- (c) Exercising management and control of the pursuit even if not engaged in it.
- (d) Ensuring that no more than the number of required police units needed are involved in the pursuit under the guidelines set forth in this policy.
- (e) Directing that the pursuit be terminated if, in his/her judgment, it is unjustified to continue the pursuit under the guidelines of this policy.
- (f) Ensuring that aircraft are requested if available.
- (g) Ensuring that the proper radio channel is being used.
- (h) Ensuring the notification and/or coordination of outside agencies if the pursuit either leaves or is likely to leave the jurisdiction of this agency.
- (i) Controlling and managing BPD units when a pursuit enters another jurisdiction.
- (j) Preparing post-pursuit critique and analysis of the pursuit for training purposes;
- (k) Advise chain-of-command of extraordinary circumstances.
- (l) Often the involvement in dangerous or life-threatening situations result in elevated emotional levels resulting from stress and increased adrenaline. As a result, it is important that a supervisor respond to the termination point of a pursuit to assume control and exercise oversight. Whenever practical, the supervisor shall proceed promptly to the termination point of the pursuit. Supervisors at the termination point shall:
 1. Evaluate the need for medical aid and when indicated ensure medical aid is summoned promptly and injured persons receive medical treatment;
 2. Evaluate the scene and ensure the scene is safe and adequate containment is in place;
 3. Ensure all law enforcement members comply with Department policies and procedures;
 4. Ensure all law enforcement members and Department personnel on scene comply with state and federal laws of arrest;

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5. Ensure the use and level of force used in effecting the arrest is appropriate and within Department policy;
6. Identify the crimes committed and which agency is responsible for the investigation;
7. Identify any damage or traffic collisions caused by the pursuit;
8. Ensure the pursuit is properly documented including any damage or report of damage or traffic collision;
9. Ensure proper notifications are made.

If an allied agency's pursuit ends in our area, the supervisor should go to the termination point, if at all possible, to provide supervision and on-scene coordination with the allied agency supervisory personnel. The supervisors present should determine each agency's responsibility for transporting, booking, and prosecution, following the guidelines of the pursuit policy.

314.4.1 WATCH COMMANDER RESPONSIBILITY

Upon becoming aware that a pursuit has been initiated, the Watch Commander should monitor and continually assess the situation and ensure the pursuit is conducted within the guidelines and requirements of this policy. The Watch Commander has the final responsibility for the coordination, control and termination of a motor vehicle pursuit and shall be in overall command.

The Watch Commander shall review all pertinent reports for content and forward to the Lieutenant in their chain-of-command.

314.5 COMMUNICATIONS

If the pursuit is confined within the City limits, radio communications will be conducted on the primary channel unless instructed otherwise by a supervisor or communications dispatcher. If the pursuit leaves the jurisdiction of this department or such is imminent, involved units should, whenever available, switch radio communications to an emergency channel most accessible by participating agencies and units.

314.5.1 COMMUNICATION CENTER RESPONSIBILITIES

Upon notification that a pursuit has been initiated, Dispatch will:

- (a) Coordinate pursuit communications of the involved units and personnel with the pursuit supervisor;
- (b) Notify and coordinate with other involved or affected agencies as practical;
- (c) Immediately notify the on-duty field supervisor of the pursuit and if one is not available contact a supervisor in the station;
- (d) Ensure supervisor's directions, regarding the pursuit, are relayed to all the involved officers;
- (e) Assign an incident number and log all pursuit activities;
- (f) Broadcast pursuit updates as well as other pertinent information as necessary;
- (g) Notify the California Highway Patrol of all pursuits, which have entered or have a potential to enter a state highway or freeway within their jurisdiction.

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314.5.2 LOSS OF PURSUED VEHICLE

When the pursued vehicle is lost, the primary unit should broadcast pertinent information to assist other units in locating suspects. The primary unit will be responsible for coordinating any further search for either the pursued vehicle or suspects fleeing on foot.

314.6 INTER-JURISDICTIONAL CONSIDERATIONS

When a pursuit enters another agency's jurisdiction, the primary officer or supervisor, taking into consideration distance traveled, unfamiliarity with the area and other pertinent facts, should determine whether to request the other agency to assume the pursuit. Unless entry into another jurisdiction is expected to be brief, it is generally recommended that the primary officer or supervisor ensure that notification is provided to each outside jurisdiction into which the pursuit is reasonably expected to enter, regardless of whether such jurisdiction is expected to assist.

314.6.1 ASSUMPTION OF PURSUIT BY ANOTHER AGENCY

Units originally involved will discontinue the pursuit when advised that another agency has assumed the pursuit and assistance of the Banning Police Department is no longer needed. Upon discontinuing the pursuit, the primary unit may proceed upon request, with or at the direction of a supervisor, to the termination point to assist in the investigation.

The role and responsibilities of officers at the termination of a pursuit initiated by this department shall be coordinated with appropriate consideration of the units from the agency assuming the pursuit.

Notification of a pursuit in progress should not be construed as a request to join the pursuit. Requests to or from another agency to assume a pursuit should be specific. Because of communication limitations between local agencies and CHP units, a request for CHP assistance will mean that they will assume responsibilities for the pursuit. For the same reasons, when a pursuit leaves the freeway and a request for assistance is made to this department, the CHP should relinquish control.

All requests will be directed to the Field Supervisor/Watch Commander for review.

314.6.2 PURSUITS EXTENDING INTO THIS JURISDICTION

The agency that initiates a pursuit shall be responsible for conducting the pursuit. Units from this department should not join a pursuit unless specifically requested to do so by the agency whose officers are in pursuit. The exception to this is when a single unit from the initiating agency is in pursuit. Under this circumstance, a unit from this department may join the pursuit until sufficient units from the initiating agency join the pursuit.

When a request is made for this department to assist or take over a pursuit from another agency that has entered this jurisdiction, the on-duty supervisor shall ensure that the criteria required to initiate a pursuit, set forth in § 314.21, exists prior to authorizing our Department's participation in the pursuit.

- (a) Watch Commander should review a request for assistance from another agency. The Watch Commander or supervisor, after consideration of the above factors, may decline to assist in, or assume the other agency's pursuit.

Assistance to a pursuing allied agency by officers of this department will terminate at the City limits provided that the pursuing officers have sufficient assistance from other sources.

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Ongoing participation from this department may continue only until sufficient assistance is present.

In the event that a pursuit from another agency terminates within this jurisdiction, officers shall provide appropriate assistance to officers from the allied agency including, but not limited to, scene control, coordination and completion of supplemental reports and any other assistance requested or needed. The agency having or witnessing the most serious crime should retain custody of the violator(s).

314.7 PURSUIT INTERVENTION

Pursuit intervention is an attempt to terminate the ability of a suspect to continue to flee in a motor vehicle through tactical application of technology, road spikes, blocking, boxing, PIT (Pursuit Intervention Technique), ramming or roadblock procedures. In this context, ramming shall be construed to mean maneuvering the police unit into contact with the pursued vehicle to mechanically disable or forcibly position it such that further flight is not possible or practical.

The only approved pursuit intervention authorized by the Department is the deployment of Department approved tire deflation devices as detailed below.

314.7.1 UNAUTHORIZED INTERVENTION

There shall not be an attempt to stop pursued vehicles using any of the following techniques:

- (a) "Boxing in";
- (b) "Ramming";
- (c) "Heading off";
- (d) "Blocking or Vehicle Intercept";
- (e) Forcing off the road;
- (f) Driving parallel to the pursued vehicle;
- (g) Roadblocks leaving no avenue of escape;
- (h) Use of the PIT maneuver;
- (i) Any other type of legal intervention as specified in the State Collision Investigation Manual (HPM 110.5), with the exception of deployment of the Department approved tire deflation device;

Off-Road type vehicles shall not be pursued if the vehicle leaves the road.

314.7.2 DEFINITIONS

Blocking or vehicle intercept - A slow-speed coordinated maneuver where two or more patrol vehicles simultaneously intercept and block the movement of a suspect vehicle, the driver of which may be unaware of the impending enforcement stop, with the goal of containment and preventing a pursuit. Blocking is not a moving or stationary road block.

Boxing-in - A tactic designed to stop a violator's vehicle by surrounding it with law enforcement vehicles and then slowing all vehicles to a stop.

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Pursuit Intervention Technique (PIT) - A low-speed maneuver designed to cause the suspect vehicle to spin out and terminate the pursuit.

Ramming - The deliberate act of impacting a violator's vehicle with another vehicle to functionally damage or otherwise force the violator's vehicle to stop.

Roadblocks - A tactic designed to stop a violator's vehicle by intentionally placing an emergency vehicle or other immovable object in the path of the violator's vehicle.

Spikes or tack strips - A device that extends across the roadway designed to puncture the tires of the pursued vehicle.

314.7.3 USE OF FIREARMS

The use of firearms to disable a pursued vehicle is not generally an effective tactic and involves all the dangers associated with discharging firearms. Officers should not utilize firearms during an ongoing pursuit unless the conditions and circumstances dictate that such use reasonably appears necessary to protect life. Nothing in this section shall be construed to prohibit any officer from using a firearm to stop a suspect from using a vehicle as a deadly weapon.

314.7.4 INTERVENTION STANDARDS

Any pursuit intervention tactic, depending upon the conditions and circumstances under which it is used, may present dangers to the officers, the public or anyone in or on the vehicle being pursued. Certain applications of intervention tactics may be construed to be a use of deadly force and subject to the requirements for such use. Officers shall consider these facts and requirements prior to deciding how, when, where and if an intervention tactic should be employed.

- (a) Blocking or vehicle intercept should only be considered in cases involving felony suspects or impaired drivers who pose a threat to public safety when officers reasonably believe that attempting a conventional enforcement stop will likely result in the driver attempting to flee in the vehicle. Because of the potential risks involved, this technique should only be employed by officers who have received training in such tactics after giving consideration to the following:
 - 1. The need to immediately stop the suspect vehicle or prevent it from leaving substantially outweighs the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.
 - 2. All other reasonable intervention techniques have failed or reasonably appear ineffective.
 - 3. Employing the blocking maneuver does not unreasonably increase the risk to officer safety.
 - 4. The target vehicle is stopped or traveling at a low speed.
 - 5. At no time should civilian vehicles be used to deploy this technique.
- (b) Only those officers trained in the use of the Pursuit Intervention Technique (PIT) will be authorized to use this procedure and only then with approval of a supervisor upon consideration of the circumstances and conditions presented at the time, including the potential for risk of injury to officers, the public and occupants of the pursued vehicle.
- (c) Ramming a fleeing vehicle should be done only after other reasonable tactical means at the officer's disposal have been exhausted. This tactic should be reserved for situations where there does not appear to be another reasonable alternative method.

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This policy is an administrative guide to direct officers in their decision-making process before ramming another vehicle. When ramming is used as a means to stop a fleeing vehicle, one or more of the following factors should be present:

1. The suspect is an actual or suspected felon who reasonably appears to represent a serious threat to the public if not apprehended.
 2. The suspect is driving with willful or wanton disregard for the safety of other persons or is driving in a reckless and life-endangering manner.
 3. If there does not reasonably appear to be a present or immediately foreseeable serious threat to the public, the use of ramming is not authorized.
- (d) As with all intervention techniques, pursuing officers should obtain supervisor approval before attempting to box a suspect vehicle during a pursuit. The use of such a technique must be carefully coordinated with all involved units, taking into consideration the circumstances and conditions presented at the time as well as the potential risk of injury to officers, the public and occupants of the pursued vehicle.
- (e) The use of spike strips should be approved in advance by a supervisor and deployed only when it is reasonably certain that only the pursued vehicle will be affected by their use. Officers should carefully consider the limitations of such devices as well as the potential risks to officers, the public and occupants of the pursued vehicle. If the pursued vehicle is a motorcycle, a vehicle transporting hazardous materials, or a school bus transporting children, officers and supervisors should weigh the potential consequences against the need to immediately stop the vehicle.
- (f) Because roadblocks involve a potential for serious injury or death to occupants of the pursued vehicle if the suspect does not stop, the intentional placement of roadblocks in the direct path of a pursued vehicle is generally discouraged and should not be deployed without prior approval of a supervisor and only then under extraordinary conditions when all other reasonable intervention techniques have failed or reasonably appear ineffective and the need to immediately stop the pursued vehicle substantially outweighs the risks of injury or death to occupants of the pursued vehicle, officers or other members of the public.

314.7.5 CAPTURE OF SUSPECTS

Proper self-discipline and sound professional judgment are the keys to a successful conclusion of a pursuit and apprehension of evading suspects. Officers shall use only that amount of force, which reasonably appears necessary under the circumstances, to properly perform their lawful duties.

314.7.6 CONCLUSION OF PURSUIT

- (a) The primary unit is responsible for the investigation at the conclusion of the pursuit.
- (b) The secondary unit shall be responsible for assisting the primary unit and broadcasting pertinent information at the termination of the pursuit.
- (c) Officers are to use appropriate "high risk stop" procedures on removing suspects from a vehicle at the conclusion of the pursuit.

314.8 REPORTING REQUIREMENTS

The following reports should be completed upon conclusion of all pursuits:

- (a) The primary officer should complete appropriate crime/arrest reports.

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Vehicle Pursuit Policy

- (b) At the conclusion of all pursuits involving Department personnel, the supervisor approving and/or involved in the pursuit will ensure a CHP187A form is filed with the CHP not later than 30 days following the pursuit (Vehicle Code § 14602.1). The primary officer should complete as much of the required information on the form as is known and forward the report to the Watch Commander for review and distribution.
- (c) Other officers involved in a pursuit may be required to submit supplemental reports^{1½¾}
- (d) In the event of unusual pursuits involving more than one agency, each agency may request an evaluation of the pursuit from other agencies involved. The evaluations shall only address the need for amendments or changes in the inter agency vehicular pursuit guidelines, and not serve as a basis to critique the judgment and/or actions of personnel of another agency or the policies of another agency
- (e) After first obtaining the available information, a field supervisor shall promptly complete a memorandum directed to the Chief of Police, via chain-of-command, summarizing the pursuit. This memo should minimally contain the following information:
 - 1. Date and time of pursuit
 - 2. Length of pursuit
 - 3. Involved units and officers
 - 4. Initial reason for pursuit
 - 5. Starting and termination points
 - 6. Disposition: arrest, citation, etc.. Arrestee information should be provided if applicable
 - 7. Injuries and/or property damage
 - 8. Medical treatment
 - 9. Name of supervisor at scene
 - 10. A preliminary determination, simply stating whether or not the pursuit appears to be in compliance with this policy
 - 11. Determine the need for any additional review and/or follow-up

314.8.1 REGULAR AND PERIODIC PURSUIT TRAINING

In addition to initial and supplementary POST training on pursuits required by Penal Code § 13519.8, all sworn members of this department will participate no less than annually in regular and periodic department training addressing this policy and the importance of vehicle safety and protecting the public at all times, including a recognition of the need to balance the known offense and the need for immediate capture against the risks to officers and others. (Vehicle Code § 17004.7(d)).

314.8.2 POLICY REVIEW

Sergeants are to review this policy with subordinates at least twice yearly and will document in writing the subordinate has received, read and understands the initial policy and any amendments. The documentation will be maintained in the subordinates divisional file.

314.9 APPLICATION OF VEHICLE PURSUIT POLICY

This policy is expressly written and adopted pursuant to the provisions of Vehicle Code § 17004.7, with additional input from the POST Vehicle Pursuit Guidelines.

Officer Response to Calls

316.1 PURPOSE AND SCOPE

This policy provides for the safe and appropriate response to emergency and non-emergency situations whether dispatched or self-initiated.

316.2 RESPONSE TO CALLS

Officers dispatched "Code-3" shall consider the call an emergency response and proceed immediately. Officers responding Code-3 shall continuously operate emergency lighting equipment, including at minimum a steady forward facing red light, and shall sound the siren as reasonably necessary pursuant to Vehicle Code § 21055.

Responding with emergency light(s) and siren does not relieve the officer of the duty to continue to drive with due regard for the safety of all persons. The use of any other warning equipment without a red light and siren does not provide any exemption from the Vehicle Code.

Officers should only respond Code-3 when so dispatched or when circumstances reasonably indicate an emergency response is required. Officers not authorized to respond Code-3 shall observe all traffic laws and proceed without the use of emergency lights and siren.

316.3 REQUESTING EMERGENCY ASSISTANCE

Requests for emergency assistance should be limited to those situations where the involved personnel reasonably believe that there is an immediate threat to the safety of officers, or assistance is needed to prevent imminent serious harm to a citizen. In any event, where a situation has stabilized and emergency response is not required, the requesting officer shall immediately notify Dispatch.

If circumstances permit, the requesting officer should give the following information:

- The unit number
- The location
- The reason for the request and type of emergency
- The number of units required

316.3.1 NUMBER OF UNITS ASSIGNED

Normally, only one unit should respond to an emergency call Code-3 unless the Watch Commander or the field supervisor authorizes an additional unit(s).

316.4 INITIATING CODE 3 RESPONSE

If an officer believes a Code-3 response to any call is appropriate, the officer shall immediately notify Dispatch. Generally, only one unit should respond Code-3 to any situation. Should another officer believe a Code-3 response is appropriate, Dispatch shall be notified and the Watch Commander or field supervisor will make a determination as to whether one or more officers driving Code-3 is appropriate.

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316.5 RESPONSIBILITIES OF RESPONDING OFFICER(S)

Officers shall exercise sound judgment and care with due regard for life and property when responding to an emergency call. Officers shall reduce speed at all street intersections to such a degree that they shall have complete control of the vehicle.

The decision to continue a Code-3 response is at the discretion of the officer. If, in the officer's judgment, the roadway conditions or traffic congestion does not permit such a response without unreasonable risk, the officer may elect to respond to the call without the use of red lights and siren at the legal speed limit. In such an event, the officer should immediately notify Dispatch. An officer shall also discontinue the Code-3 response when directed by a supervisor.

Upon receiving authorization or determining a Code-3 response is appropriate, an officer shall immediately give the location from which he/she is responding.

316.6 COMMUNICATIONS RESPONSIBILITIES

A dispatcher shall assign a Code-3 response when an officer requests emergency assistance or available information reasonably indicates that the public is threatened with serious injury or death and immediate police response is needed. In all other circumstances, the dispatcher shall obtain authorization from the Watch Commander or a field supervisor prior to assigning units Code-3. The dispatcher shall:

- (a) Attempt to assign the closest available unit to the location requiring assistance
- (b) Immediately notify the Watch Commander
- (c) Confirm the location from which the unit is responding
- (d) Notify and coordinate allied emergency services (e.g., fire and ambulance)
- (e) Continue to obtain and broadcast information as necessary concerning the response and monitor the situation until it is stabilized or terminated
- (f) Control all radio communications during the emergency and coordinate assistance under the direction of the Watch Commander or field supervisor

316.7 SUPERVISORY RESPONSIBILITIES

Upon being notified that a Code-3 response has been initiated, the Watch Commander or the field supervisor shall verify the following:

- (a) The proper response has been initiated
- (b) No more than those units reasonably necessary under the circumstances are involved in the response
- (c) Affected outside jurisdictions are being notified as practical

The field supervisor shall monitor the response until it has been stabilized or terminated and assert control by directing units into or out of the response if necessary. If, in the supervisor's judgment, the circumstances require additional units to be assigned a Code-3 response, the supervisor may do so.

It is the supervisor's responsibility to terminate a Code-3 response that, in his/her judgment is inappropriate due to the circumstances.

When making the decision to authorize a Code-3 response, the Watch Commander or the field supervisor should consider the following:

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- The type of call
- The necessity of a timely response
- Traffic and roadway conditions
- The location of the responding units

316.8 FAILURE OF EMERGENCY EQUIPMENT

If the emergency equipment on the vehicle should fail to operate, the officer must terminate the Code-3 response and respond accordingly. In all cases, the officer shall notify the Watch Commander, field supervisor, or Dispatch of the equipment failure so that another unit may be assigned to the emergency response.

Off Duty Arrests

317.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to police officers regarding acceptable criteria for affecting an off-duty arrest.

317.2 POLICY

Off-duty officers are often faced with situations involving criminal conduct that they are neither equipped nor prepared to handle in the same manner as if they were on duty. This may lead to unnecessary injuries to off-duty officers, and confusion for those on-duty officers arriving at the scene trying to correctly assess the facts. In order to promote safety and the most efficient operations, it is the policy of this Department to determine and regulate those situations and locations within which a sworn member is permitted to make an arrest while off-duty.

317.3 RESPONSIBILITY

Under California law, both on-duty and off-duty officers have peace officer authority as to any public offense committed or where there is immediate danger to person or property, or the escape of the perpetrator of such offense. However, on-duty officers outside the City limits who are not acting within the scope of employment as a Banning Police Officer on matters of direct concern to the City and off-duty officers both inside and outside the City limits are to give first consideration to causing the appropriate action to be effected by the responsible law enforcement agency.

317.4 PERSONALLY INVOLVED

Where the off-duty officer, a family member, or a friend becomes engaged in a dispute or incident with the person to be arrested or any other person connected with the incident. This does not apply to situations where the police officer is a victim of a crime.

317.5 LIABILITY PROTECTION

Although police officers of this department have liability protection while acting in the course and scope of their employment as peace officers for the City of Banning, such protection does not extend to criminal activity or willful acts that cause injury or damage to person or property. While state law grants peace officer authority anywhere in the state, it does not include liability protection. In order for an officer to be protected for his or her actions, as a peace officer, compliance with sections 317.6, 317.61, and 317.7 is necessary.

317.6 PERMITTED OFF DUTY-ARRESTS

When off-duty and within the legal jurisdiction of this Department, a police officer may make an arrest only when:

- (a) The arresting officer is not personally involved in the incident underlying the arrest; and
- (b) There is an immediate need for the prevention of a crime or apprehension of a suspect; and
- (c) The officer should consider the tactical situation; and
- (d) The crime would be charged as a jailable offenses requiring a full custodial arrest; and

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- (e) The arresting officer is in possession of appropriate police identification.

317.6.1 OFF-DUTY RESPONSIBILITIES

While off-duty, it is the responsibility of the police officer to immediately report any suspected or observed criminal activities to on-duty authorities.

Except as allowed by this policy, off-duty officers should not enforce summary offenses or minor violations such as harassment, disorderly conduct or other quality-of-life offenses. On-duty personnel shall be contacted to respond to the situation where an off-duty officer becomes aware of such violations.

Where an arrest is necessary, the off-duty officer shall consider the tactical situation prior to taking any action, and then the officer shall abide by all departmental policies and procedures.

This section does not negate any responsibilities delineated in section 317.3.

317.7 PROHIBITED OFF-DUTY ARRESTS

Police officers of this Department may not make an arrest off-duty:

- (a) When the arresting officer is personally involved in the incident underlying arrest; or
- (b) When engaged in off-duty employment of a non-police nature and the actions are only in furtherance of the interest of the private employer.
- (c) When the arrest is made solely as enforcement of a minor traffic regulation. Despite the fact that a police officer has police powers and responsibilities 24 hours a day throughout the jurisdiction the off-duty officer should not enforce minor traffic regulations.

Nothing in this section affects the officer's right to make a citizen's arrest pursuant to Penal Code §§ 834 and 837.

Canine Policy

319.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the Banning Police Department with an internal set of guidelines for the use of police canines. This policy is not intended to provide the standard of care for any civil or other external proceeding and the determination of compliance with this policy is expressly reserved to internal proceedings within the Banning Police Department.

The policy of the Banning Police Department is to promote an atmosphere of service and safety in our community by providing general and specialized law enforcement activity through the efficient use of police canines.

319.2 OBJECTIVES

The objectives of the police canine team are:

- (a) Reduce the manpower and time spent in thoroughly searching buildings or areas of concern.
- (b) Searching for missing persons.
- (c) Reduce injuries to police officers and citizens resulting from criminal attacks.
- (d) Increase the number of suspects apprehended while committing criminal acts.
- (e) The detection of certain narcotics and dangerous drugs.

319.3 PREPARATIONS FOR UTILIZING A POLICE SERVICE DOG

Prior to the use of a police service dog to search for or apprehend an individual, the police service dog handler and/or the supervisor on scene shall carefully consider all pertinent information 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 service dog 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;
- (f) The potential for injury to the officers or the public caused by the suspect if the police dog is not utilized.

319.4 USE OF POLICE CANINE

The decision to use a police canine in accordance with this policy shall be deemed an act of discretion and shall be reviewed in light of information reasonably available to the officer(s) at the time the decision is made. The ultimate disposition of any related criminal proceeding shall have no bearing on determining the reasonableness of any such decision.

319.4.1 GUIDELINES AND CAPABILITIES

A police canine may be used to apprehend an individual if:

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- (a) The canine handler reasonably believes that the individual has either committed or has threatened to commit any serious offense and if any of the following conditions exist:
 - 1. There is a reasonable belief that the individual poses an immediate threat of violence or serious harm to the public or any officer.
 - 2. The individual is physically resisting or is threatening to resist arrest and the use of a police canine appears necessary to overcome such resistance.
 - 3. The individual is believed to be concealed in an area where entry by other than the canine would pose a threat to the safety of officers or the public.
- (b) It is recognized that situations may arise which do not fall within the provisions set forth in this policy. In any such case, a standard of reasonableness shall be used to review the decision to use a police canine in view of the totality of the circumstances. Note: 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 an individual.
- (c) The police canine has been trained and may be used to defend itself from any annoying, harassing, or provoking acts or assisting the handler in any of the following:
 - 1. In the apprehension or holding of a suspect where the handler has a reasonable suspicion of the suspect's involvement in criminal activity.
 - 2. In the investigation of a crime or possible crime.
 - 3. In the execution of a warrant.
 - 4. In alarm situations: - burglary or robbery.
 - 5. In evidence searches.
 - 6. In searching for narcotics or drugs.
 - 7. To locate lost persons or articles.
 - 8. In security checks.
 - 9. In warrant service situations.
 - 10. To back up police officers.
 - 11. To overtake or capture barricaded suspects.
 - 12. To track lost persons and suspects.
 - 13. To protect or defend police officers or citizens from acts of violence.
 - 14. To conduct structure and area searches.
 - 15. At major disaster scenes (plane crashes, earthquakes, fires, etc. locate victims or maintain security of the disaster scene.

319.4.2 GENERAL HANDLING

Final determination as to the use of the police canine will be the responsibility of the canine handler. The handler shall apprise the on-duty Watch Commander/Supervisor as to the implementation of the canine and any other special considerations to be taken into account. However, an on-duty Watch Commander/Supervisor sufficiently apprised of the situation may decide not to deploy the dog.

In using the police canine in apprehending a fleeing suspect, or in using the canine as an actual means of force, the handler must give proper consideration to the limits on using force as stated in this General Order and the Department's Use of Force Guidelines, and

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the Penal Code. A loud clear warning will be given prior to releasing the dog on a fleeing or hidden suspect. In the case of a concealed suspect, the handler should give a reasonable amount of time for the suspect to surrender unless it is tactically unsafe for the officer or may infringe on the public safety.

Exception: A loud clear warning will not be necessary, if the search is for a suspect who may be armed or considered dangerous, where a warning would jeopardize officer safety.

- (a) Handlers should make every reasonable effort to ensure that the search area is clear of uninvolved citizens and that an adequate perimeter is established to keep citizens out and the suspect within.
- (b) The decision to search on or off leash will be left to the handler.
- (c) Police canines should be kept 'on leash' in areas open to the public, unless being actually used for specific and authorized police purposes as specified in this General Order.
- (d) When police canines are left unattended in a police vehicle, the vehicle will be locked and the windows rolled up unless equipped with screens. Handlers shall provide proper ventilation for the canine at all times.
- (e) Police canines shall not be used for crowd control without the approval of a supervisor. During riot situations the canine may be used. The rioters will be warned of the intended application of the canine. Canines should be worked on a leash in these situations.
- (f) Police canines should not be handled by anyone other than canine trained and certified Department employees, and authorized veterinarian(s).
- (g) Handlers will ensure that their canines are maintained at a proficiency level as required by the Department canine trainer and the Banning Police Department.
- (h) Handlers shall prepare and file all appropriate reports, daily logs, diagrams and daily activity reports prior to the end of their current shift.
- (i) At no time, either on-duty or off-duty, shall the handler utilize the canine for the purpose of threatening or intimidating any person without just cause and actual police necessity.
- (j) Unless the suspect is known to be armed, canines shall not be used to search (excluding tracking) for persons in hiding, when the person is known to be under the age of 16 years, or to stop the flight of a person known to be under 16 years of age.

Exception: The canine may be used in defense of an officer or persons who may be in immediate danger.

319.4.3 NON-HANDLER PERSONNEL

Police canines are trained to perform specific duties. All non-handler personnel are cautioned with regard to petting or attempting to become friendly with the canines. No attempt to pet the canine shall be made unless the handler is present and has given approval for the action. The canines are trained to protect their handlers and their Department vehicle. Department personnel shall not attempt to pet the canine when it is alone in the police vehicle or unattended.

- (a) Attempts to entice the canine to disobey its handler are forbidden. No calling, whistling or command simulations should be made by non-handlers.
- (b) No one except the handler should feed the canine.

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- (c) Whenever a canine team can be used to search an area or building, Department personnel are to establish a perimeter and refrain from entering same until the operation is completed.
- (d) Unless otherwise directed by a supervisor, assisting personnel should take direction from the handler in order to minimize interference with the canine.

319.4.4 PUBLIC RELATIONS AND DEMONSTRATIONS

- (a) All requests for public relations activities shall be made to the Chief of Police in writing. The memo shall include the date, location, organization involved, number and approximate age of the group and a short synopsis of how the canine will be used.
- (b) Department coverage and manpower needs will take priority over any request.
- (c) All statistics on the police canine's performance will be approved by the Division Commander.
- (d) "Apprehension work" will not be shown or photographed unless specifically authorized by the Chief of Police.
- (e) All canine personnel assigned to public relations duties shall prepare themselves, their canine and their equipment in such a manner as to present a professional image to the public.
- (f) Handlers will take into consideration the capabilities and limitations of their individual dogs when conducting public relations demonstrations. The canine's safety and that of the public take precedence over other factors.

319.4.5 BITE/INJURY REPORT

- (a) Any bite victim will be evaluated by an emergency care facility as to the need for further medical attention. A copy of the medical report will accompany the handler's report.
- (b) The handler shall notify the on-duty Watch Commander/Supervisor or the on-call supervisor of any bite incident.
- (c) All bites require that the handler complete a detailed report as to the events leading up to the bite, the bite occurrence itself and disposition of the person bit. In addition~all people who observed the bite will be included as witnesses in the report. Others who heard the commands of the handler or saw actions leading up to the bite should also be included in the report. Photographs showing the location of the bites, number of bites and types of bites will also be submitted with the report.
- (d) If an accidental or unintentional bite occurs, the above procedure shall be complied with.
- (e) Photographs of the bites should be taken by the handler or supervisor.
- (f) If a bite occurs while the canine and handler are off-duty, the handler shall immediately notify an on-duty supervisor or the on-call supervisor. The supervisor shall submit an evaluation of the incident through the chain-of- command to the Chief of Police. The handler shall also submit a written report to the Division Lieutenant within twenty-four hours.
- (g) No officer shall make any statement of liability acceptance for injuries inflicted by a Department canine. The injured person shall be advised that he/she may submit a written claim to the City Clerk during normal business hours.

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319.4.6 REQUESTS FOR ASSISTANCE

- (a) Departmental:
 - 1. Canine units shall act in support of patrol units on all calls which indicate that the canine's presence will be of assistance as provided in this General Order.
 - 2. A report shall be filed following each incident. The original shall be submitted to the on-duty supervisor for approval and then submitted to the Records Unit. A copy shall be forwarded to the Chief of Police via the Division Commander by the handler completing the report.
- (b) Outside Agencies:
 - 1. All requests for canine assistance shall be cleared through the on-duty supervisor or the on-call supervisor.
 - 2. Handlers will work their canines under Banning Police Department procedures and not the procedures of the requesting agency.

319.4.7 CARE AND MEDICAL TREATMENT

- (a) It is the responsibility of the canine handler to keep his canine in such physical condition that the canine is able to perform the duties expected of it.
- (b) Any indication that the canine is not in good condition shall be reported to the Chief of Police via the Division Lieutenant.
- (c) All veterinary attention, not of an emergency nature, shall be coordinated by the canine handler.
- (d) Medical emergencies shall be fully documented. All reports of the canine's condition and treatment shall be submitted to the Chief of Police. The report is due to the Chief of Police upon the handlers return" to duty.
- (e) Any handler who abuses or neglects. his/her canine will be subject to disciplinary action and. the handler will be immediately removed from the Canine Unit.

319.4.8 INJURY TO THE HANDLER

Should the handler become injured and his canine is present, no one should approach the injured handler until:

- (a) Given clearance to do so by the handler.
- (b) The canine can be called from the handler and secured.
- (c) On-scene officers shall attempt the following procedures to secure a canine from an injured handler:
 - 1. Attempt to call the canine to a secure location.
 - 2. Contact another handler to secure the canine.

In the event that immediate medical attention is required for the handler and the canine will not permit this to take place, a supervisor may take appropriate action to eliminate the hazard presented by the canine.

319.5 TRAINING

Before assignment in the field, each police service dog 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

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

319.5.1 CONTINUED TRAINING

Each police service dog team shall thereafter be re-certified to P.O.S.T. police service dog 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) Police service dog teams shall receive training as defined in current contract with the department's police service dog training provider:
 1. Police service dog handlers are encouraged to engage in additional training with approval of the unit coordinator;
 2. In order 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 Banning Police Department;
 3. All police service dog training shall be conducted while on-duty unless otherwise approved by the unit coordinator or watch commander.

319.6 RECORD KEEPING

- (a) Each canine will have a complete personnel file maintained, documenting all training, medical care, and activities the canine is involved in.
- (b) Training: The on-going certification training of the canine will be documented (e.g.; filed searches; structure- searches; etc.): The regularly scheduled field training; detailing the times involved and areas covered will also be documented;
- (c) Veterinary Care: All medical care received by the canine will be documented by entering a copy of the treatment statement in the canine's file.
- (d) The canine will have the appropriate license(s).

319.7 HOME KENNELING

- (a) Handlers must have the approval of all adult persons residing in their residence in order to house a police canine.
- (b) Residents must be aware that the canine is not a pet but a trained working canine.
- (c) Handlers must live in a single family dwelling with a fully fenced rear yard. Handlers must agree to allow representatives of the Department on their property for the purpose of inspecting areas where the canine is kenneled.
- (d) The immediate neighbors of the intended handler shall be contacted and advised that a police canine may be housed nearby! Their opinions and desires shall be considered in any decision by the Department in handler selection.
- (e) Canines shall be kept at the home of their handlers in kennels or quarters approved by the. Division Lieutenant.
- (f) The kennel shall be kept in a clean and sanitary condition at all times.
- (g) Canines will be securely kenneled or under the direct control of their handler while off-duty.
- (h) Handlers are not to involve themselves in any off-duty activity with their canines which may bring discredit on the program or the Department.
- (i) The handler and his family must realize that the canine placed in the care of the handler is a 24 hour responsibility.

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- (j) The canine must not be allowed to roam at will.
- (k) Vacation kenneling will be arranged by the canine handler at an approved facility.
- (l) Handlers shall permit the unit coordinator to conduct spontaneous on-site inspections of affected areas of their residence as well as the service dog unit, to verify that conditions and equipment conform to this policy.
- (m) Any changes in the living status of the handler which may affect the lodging or environment of the police canine dog shall be immediately reported to the unit coordinator.

319.8 SERVICE DOG UNIT COORDINATOR RESPONSIBILITIES

The unit coordinator shall be appointed by the Chief of Police and shall supervise the police service dog program. The unit coordinator is directly responsible to the Chief of Police designee. The unit coordinator shall be responsible for, but not limited to the following:

- (a) Maintain liaison with the vendor kennel;
- (b) Maintain liaison with administrative staff and functional supervisor(s);
- (c) Maintain liaison with other agency police service dog coordinators;
- (d) Maintain accurate records to document police service dog activities;
- (e) Recommend and oversee the procurement of needed equipment and services for the unit;
- (f) Be responsible for scheduling all police service dog related activities; and
- (g) Ensure the police service dog teams are scheduled for continuous training to maximize the capabilities of the team.
- (h) The Unit Coordinator 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.

319.9 NARCOTICS DETECTION CANINE

- (a) Training: Continuous training is absolutely essential to maintain proficiency in narcotics detection. Whenever possible, handlers of working detection canines should be allowed to one free hour during the work shift for training. The amount of scheduled weekly narcotic training, in addition to canine patrol training, will be recommended by the department trainer. This additional narcotics training, if deemed necessary, will be conducted on a designated training day.
- (b) Certification: Certification of a narcotics detection team will be administered annually by a person qualified to certify a team under suggested POST guidelines. The department trainer will be consulted on the selection of the person certifying the team.
- (c) Call-Outs: The narcotics detection teams are not considered an emergency response team, therefore generally will not be available for 24 hour call-out. The handlers can be called out at the discretion of the watch commander. The legality and justification for calling out the team should be carefully evaluated by the watch commander.
- (d) Field Duties: The narcotic teams are trained for narcotics detection only. As this is a collateral duty, the handlers have no special limitations or restrictions with patrol work and will be assigned to normal field duties.

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All duly authorized peace officers in 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)).

319.9.1 WHEN TO USE THE TEAM

- (a) Search warrants
- (b) Consent searches
- (c) Exigent circumstances
- (d) Vehicle searches
- (e) Searches incident to an arrest
- (f) 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.
 - 1. 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.
 - 2. Throughout the deployment of the canine in such circumstances, the handler should consider issuing periodic verbal assurances that the canine will not bite or hurt the person.
 - 3. 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.

319.9.2 SEARCHES

When called to a scene to conduct a search, the handler will contact the officer in charge immediately. The handler will:

- (a) Evaluate the type and legality of the requested search and advise the officer in charge.
- (b) Evaluate the search for potential hazards, i.e., sharp objects, caustic materials or other animals.
- (c) Brief other officers at the scene as to their requirements and conduct during the search.

319.9.3 NARCOTICS CAPABILITIES

The narcotics trained canine will have the capability of searching for:

- (a) Marijuana
- (b) Hashish
- (c) Cocaine
- (d) Heroin
- (e) Methamphetamine

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319.9.4 HANDLER SEIZURE TRAINING DOCUMENTATION

The canine handler will have the responsibility for documenting all narcotics training, searches and seizures. The handlers will maintain copies of all records. The canine supervisor will be responsible for maintaining archives for original records.

- (a) Narcotic Training Log: used to document all narcotics training. The logs will be turned over to the canine supervisor at the end of the calendar year.
- (b) Narcotic Search Report: used to document all narcotics searches (negative or positive). Contains seizure documentation. This report will be given to the canine supervisor when completed. Asset seizures will be evaluated and submitted through the department's designated representative for asset forfeiture processing.
- (c) Currency Report: used to document positive or negative narcotic finds on currency in conjunction with the Search Report. The report will be given to the canine supervisor at the end of the calendar year.

319.9.5 ASSIGNMENT

The Canine Narcotics Team(s) are assigned to the Canine Unit of the Field Operations Division.

319.9.6 HANDLER RESPONSIBILITIES

Expediently respond to field requests for searches.

- (a) Maintain narcotics certification through continuous training.
- (b) Maintain records of training, searches and seizures.
- (c) Maintain training aids in accordance with this policy.
- (d) Notify the canine supervisor and department trainer of any performance problems which occur during field contacts or training.
- (e) Notify the canine supervisor when leaving town or during any absence when security and control of the handlers training aids may be in question

319.9.7 SUPERVISOR RESPONSIBILITIES

- (a) Manage all phases of the narcotics detection program, monitor training and ensure compliance with narcotics detection operations policies.
- (b) Responsible for and will submit the following reports to the Field Operations Lieutenant via the Chain of Command.
 - 1. Quarterly search and seizure reports.
 - 2. Quarterly narcotics aids inspection reports.
 - 3. Conduct a quarterly inspection of narcotic training aids.
 - 4. Facilitate the acquisition of training aids or necessary equipment.
 - 5. Review search reports and training logs.
 - 6. Maintain records of training aid documentation and all reports and training documentation submitted by the handlers.

319.9.8 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.

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Canine Policy

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

319.9.9 PROCEDURE

Training narcotics will be obtained from the police evidence narcotics vault. Responsibility for the release of narcotics rests with the evidence technician.

- (a) Acquisition of narcotics to be used as training aids shall be weighed and logged in by the evidence technician or his designee. Narcotics being taken from storage as training aids must be weighed and logged in the presence of the handler requesting the narcotics.
- (b) All training aids in the possession of the canine handlers will be inspected monthly by the canine unit supervisor and a report submitted to the Field Operations Lieutenant.
- (c) Officers designated as narcotics detection handlers will be issued training aids for specific periods of time and in sufficient quantities to facilitate an ongoing daily training program in order to maintain their dog's level of expertise.
- (d) Each handler will maintain his/her training aids in security boxes, mounted- bolted to the vehicle body, in the trunks of their respective police units. To control access to the trunks, locks will be changed to ensure key control and the auto-release trunk switch will be disconnected. Access will be limited to the narcotic detection handler and the canine unit supervisor only.
- (e) All training aids in possession of the handlers will be inspected and weighed quarterly, or at any time at the request of the unit supervisor or supervisory personnel. A training aid issuance log and inspection reports will be completed and maintained by both the Canine Unit supervisor and evidence technician staff. Any discrepancy in issuance log and/or logged weight quantity of the training aid shall be documented and the handler involved will prepare an officer's report explaining the circumstances for the files after the approval by both the Field Operations and Special Operations Lieutenants.
- (f) Periodically, training aids will be returned to the evidence room for destruction. These products shall be weighed, witnessed and logged by the handler and evidence technician. The returned product will then be destroyed and replaced with like substance as required for ongoing train all necessary log entries and/or approval forms will be completed.

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.

320.1.1 DEFINITIONS

Definitions related to this policy include:

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

320.2 POLICY

The Banning 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.

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 INVESTIGATIONS

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

- (a) Calls of reported, threatened, imminent or ongoing domestic violence and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes incomplete 9-1-1 calls.
- (b) When practicable, officers should obtain and document statements from the victim, the suspect and any witnesses, including children, in or around the household or location of occurrence.
- (c) Officers should list the full name and date of birth (and school if available) of each child who was present in the household at the time of the offense. The names of other children who may not have been in the house at that particular time should also be obtained for follow-up.
- (d) When practicable and legally permitted, video or audio record all significant statements and observations.
- (e) All injuries should be photographed, regardless of severity, taking care to preserve the victim's personal privacy. Where practicable, photographs should be taken by

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a person of the same sex. Victims whose injuries are not visible at the time of the incident should be asked to contact the Detective Bureau in the event that the injuries later become visible.

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

320.4.1 IF A SUSPECT IS ARRESTED

If a suspect is arrested, officers should:

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

320.4.2 IF NO ARREST IS MADE

If no arrest is made, the officer should:

- (a) Advise the parties of any options, including but not limited to:
-

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1. Voluntary separation of the parties.
 2. Appropriate resource referrals (e.g., counselors, friends, relatives, shelter homes, victim witness unit).
- (b) Document the resolution in a report.

320.5 VICTIM ASSISTANCE

Victims may be traumatized or confused. Officers should:

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

320.6 DISPATCH ASSISTANCE

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

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

320.7 FOREIGN COURT ORDERS

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

320.8 VERIFICATION OF COURT ORDERS

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

- (a) Ask the subject of the order about his/her notice or receipt of the order, his/her knowledge of its terms and efforts to respond to the order.

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- (b) Check available records or databases that may show the status or conditions of the order.
- (c) Contact the issuing court to verify the validity of the order.
- (d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.

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

320.9 LEGAL MANDATES AND RELEVANT LAWS

California law provides for the following:

320.9.1 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 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.
- (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)
 - 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.

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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).

320.9.2 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 carry copies of the order while on-duty and shall file a copy with the court as soon as practicable (Family Code § 6270 et seq.).
- (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).

320.9.3 PUBLIC ACCESS TO POLICY

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

320.9.4 REPORTS AND RECORDS

- (a) A written report shall be completed on all incidents of domestic violence. All such reports should be documented on the appropriate form, which includes information and notations specific to domestic violence incidents as required by Penal Code § 13730.
- (b) Reporting officers should provide the victim with the case number of the report. The case number may be placed in the space provided on the domestic violence victim information handout provided to the victim. If the case number is not immediately available, an explanation should be given regarding how the victim can obtain the information at a later time.
- (c) Officers who seize any firearm or other deadly weapon in a domestic violence incident shall issue the individual possessing such weapon a receipt and notice of where the weapon may be recovered, along with the applicable time limit for recovery (Penal Code § 18250; Penal Code § 33800; Family Code § 6389(c)(2)).

320.9.5 RECORD-KEEPING AND DATA COLLECTION

This department shall maintain records of court orders related to domestic violence and the service status of each (Penal Code § 13710), as well as records on the number of domestic violence related calls reported to the Department, including whether weapons were used in the incident (Penal Code § 13730). This information is to be reported to the Attorney

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General monthly. It shall be the responsibility of the Records Supervisor to maintain and report this information as required.

320.9.6 DECLARATION IN SUPPORT OF BAIL INCREASE

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

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 Banning Police Department personnel to consider when dealing with search and seizure issues.

322.2 POLICY

It is the policy of the Banning 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.

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:

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

322.5 DOCUMENTATION

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

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

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

In cases where a search does not result in an arrest, officers are responsible for documenting the information listed above in incident notes per policy section 344.4.1.

322.6 WARRANT SERVICE CHECKLIST

The Banning Police Department Search Warrant Checklist shall be completed by all Banning Police Department personnel, regardless of assignment, when engaged in the operational planning of a search warrant and/or arrest warrant and included in the case report. If, based on the department's Search Warrant Threat Assessment form, a review is not required by an E.T.U. Supervisor, this form shall be submitted to the appropriate Division Supervisor for review and approval prior to the execution of the search and/or arrest warrant(s), with the exception of department members assigned to a task force. Department personnel assigned to a task force are authorized to use the task force's Search Warrant Checklist in lieu of the Banning Police Department Search Warrant Checklist.

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322.7 WARRANT SERVICE THREAT ASSESSMENT FORM

The Banning Police Department Warrant Threat Assessment Form shall be completed by all Banning Police Department personnel, regardless of assignment, when engaged in the operational planning of a search warrant and/or arrest warrant and included in the case report. The Threat Assessment Form is to be used as a means to evaluate the need for assistance from the Emergency Tactical Unit (E.T.U.) and to ensure conformity in the application and use of E.T.U. If one or more of the criteria listed in Items 1-5 are checked "Yes," the Threat Assessment Form shall be submitted to an E.T.U. Supervisor for review prior to the execution of the search and/or arrest warrant(s). If two or more of the criteria listed in Items 6-12 are checked "Yes," the Threat Assessment Form shall be submitted to an E.T.U. Supervisor for review prior to the execution of the search and/or arrest warrant(s).

If after completing the Threat Assessment Form it is determined that a review by an E.T.U. Supervisor is not required, the form shall still be completed and included in the case report and a copy routed to the E.T.U. Commander for record keeping purposes.

Banning Police Department personnel, assigned to a task force, are exempt from completing the Banning Police Department Threat Assessment Form when engaged in the operational planning of a search warrant and/or arrest warrant outside the City of Banning.

Any number of circumstances may dictate that E.T.U. be used. Department personnel are encouraged to contact an E.T.U. Supervisor whenever questions arise concerning the evaluation of the criteria listed on the Threat Assessment Form.

School Resource Officers

323.1 PURPOSE AND SCOPE

The purpose of this general order is to establish a job description and outline of duties for personnel assigned as a School Resource Officer (SRO).

323.1.1 DEFINITION

A School Resource Officer is a sworn police officer, who is assigned to a primary education facility or group of facilities and is responsible for assisting school administrative staff with maintaining a safe, secure learning environment and developing and maintaining cooperative relationships between schools and police.

323.1.2 DUTIES

- (a) The primary focus of the SRO is the safety of the students, staff, and facility. The SRO is responsible for assisting school administrative staff in designing, implementing, and maintaining procedures and policies at the educational facility in order to promote campus safety.
- (b) The SRO will enforce all pertinent laws and ordinances on school campuses that the officer is assigned to. Enforcement will be consistent with services rendered to all citizens in the community. This enforcement will also include preparing written reports consistent with existing department policy.
- (c) The SRO is responsible for conducting preliminary investigations for any crimes reported to the SRO by students or staff, whether or not they occur on campus. The SRO may also write reports to document incidents occurring off campus, if the incident involves students or staff.
- (d) The SRO is responsible for completing monthly activity reports and submitting these reports to his/her immediate supervisor. These reports will contain, at the minimum, the number of reports taken, citations issued, and arrests made.
- (e) The SRO will conduct truancy enforcement by issuing citations, returning students to school, conducting home visits, and providing informal counseling.
- (f) The SRO will also provide law enforcement educational services as requested by school staff and upon approval of a supervisor. These services may include classroom instruction, special programs, or small group instruction.
- (g) The SRO is responsible for coordinating and organizing additional Banning Police Department resources for special events (i.e., additional officers for sporting events, graduation, etc.).
- (h) While performing the duties of the SRO, the officer will uphold the standards of the Code of Ethics and conform to all Department policies and procedures.

323.1.3 OTHER RESPONSIBILITIES

- (a) The SRO should help to increase the students understanding and respect for law enforcement through positive interaction, informal counseling, and through professional appearance.

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- (b) The SRO is not a school disciplinarian and will only take action when there is a violation of the law. School discipline is the responsibility of the school administrative staff.
- (c) The SRO will participate actively in school affairs as a representative for the Banning Police Department.
- (d) The SRO will present the philosophies of the Banning Police Department in a positive and professional manner.
- (e) All searches conducted on campus will only be conducted when the search is warranted and shall comply with existing policy, statutory law, and case law guidelines. Whenever possible, the SRO should avoid directing school staff to conduct any search. The SRO should not participate in administrative searches by school staff, but may stand by for safety purposes, if requested.
- (f) In the event a police report is written, Department policy relating to the preparation and submittal for review should be adhered to. If the school staff requests a copy of the report, they shall be directed to the Department's Records Department. If requested, the SRO will write a memorandum to the school's principal for purposes of documentation for additional school disciplinary procedures.
- (g) The SRO is an extension of patrol and will drive an assigned marked patrol vehicle. The SRO will be in uniform, unless directed otherwise. The SRO will contact dispatch upon going in service and arriving on campus. The SRO will advise dispatch upon leaving campus.
- (h) The SRO should take days off to coincide with school holidays and will work five eight hour shifts. The hours of work will coincide with the times school is in session.
- (i) In the event the SRO is unavailable to respond to an incident at their school, the SRO shall notify the Watch Commander and dispatch, so that the Watch Commander may assign additional resources.
- (j) Supervision of the SRO will be determined by the Administrative Lieutenant.

Temporary Custody of Juveniles

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 Banning 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.
- (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.

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- (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 Banning 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 Banning 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 Banning 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 Banning Police Department unless they have been evaluated by a qualified medical and/or mental health professional (15 CCR 1142).

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).

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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 Banning 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 Banning 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 Banning 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 Banning 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).

324.4.3 CUSTODY OF JUVENILE OFFENDERS

Juvenile offenders should be held in non-secure custody while at the Banning 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.

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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)).

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 Banning 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.

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- (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 Banning 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).

324.8 TEMPORARY CUSTODY REQUIREMENTS

Members and supervisors assigned to monitor or process any juvenile at the Banning 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 Banning Police Department more than four hours. This will enable the Watch Commander to ensure no juvenile is held at the Banning 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).

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- (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 Banning Police Department when the juvenile presents 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 PERSONAL PROPERTY

The officer taking custody of a juvenile offender or status offender at the Banning 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 Banning Police Department.

324.11 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

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- (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).

324.11.1 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.

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324.12 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 Banning Police Department (15 CCR 1142; 15 CCR 1047). The procedures will address:

- (a) Immediate notification of the on-duty supervisor, Chief of Police and Investigation 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.
- (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.

324.13 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.

324.14 FORMAL BOOKING

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

Any juvenile, 14 years of age or older, who is taken into custody for a felony, or any juvenile whose acts amount to a sex crime, shall be booked, fingerprinted and photographed.

For all other acts defined as crimes, juveniles may be booked, fingerprinted or photographed upon the approval from the Watch Commander or Detective Bureau supervisor, giving due consideration to the following:

- (a) The gravity of the offense
- (b) The past record of the offender
- (c) The age of the offender

324.15 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 Banning Police Department Policy Manual. Such releases are authorized by Welfare and Institutions Code § 827.

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

324.16 BOARD OF STATE AND COMMUNITY CORRECTIONS CERTIFICATION

The Patrol Division Commander shall coordinate the procedures related to the custody of juveniles held at the Banning 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 Banning 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.

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).

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.

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

326.3.1 RECORDS BUREAU RESPONSIBILITY

The Records Bureau is responsible for the following:

- (a) Provide a copy of the elder/dependent abuse report to Adult Protective Services. This requirement is applicable even if the initial call was received from Adult Protective Services.
- (b) Retain the original elder/dependent abuse report with the initial case file.

326.4 OFFICER'S RESPONSE

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

326.4.1 INITIAL RESPONSE

Officers may be called upon to effect a forced entry as the first responder to the scene of suspected adult abuse. Entry should be immediate when it appears reasonably necessary to protect life or property. When the need for an emergency entry is not evident, officers should seek supervisory approval. Officers must be prepared to provide emergency care pending the arrival of medical personnel, if not already present.

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326.4.2 STABILIZE THE SITUATION

Officers must quickly assess the situation in an effort to ensure the immediate safety of all persons. Officers shall also consider taking the following actions:

- (a) Attempt to identify the victim, suspect and witnesses as well as the roles and relationships of all parties. Parties should be interviewed separately when possible.
- (b) Preserve the crime scene where evidence may be present. All persons should be removed from the scene until it has been photographed and processed. Any evidence that may change in appearance (e.g., injuries) should be photographed as soon as practicable.
- (c) Assess and define the nature of the problem. Officers should assess the available information to determine the type of abuse that may have taken place or the potential for abuse in the future that may be eliminated by intervention.
- (d) Make on-scene arrests when appropriate. The present and future safety of the victim is of utmost importance.

326.4.3 SUPPORT PERSONNEL

The following persons should be considered for notification if it appears an in-depth investigation is appropriate:

- Patrol supervisor
- Detective personnel
- Evidence collection personnel
- Protective Services Agency personnel
- Ombudsman shall be called if the abuse is in a long-term care facility, to coordinate efforts to provide the most immediate and appropriate response (Welfare and Institutions Code § 15630(b)).

326.4.4 EMERGENCY PROTECTIVE ORDERS

In any situation which an officer reasonably believes that an elder or dependent adult is in immediate and present danger of abuse based on an allegation of a recent incident of abuse or threat of abuse (other than financial abuse alone), the officer may seek an emergency protective order against the person alleged to have committed or threatened such abuse (Family Code § 6250(d)).

326.5 ADULT ABUSE REPORTING

Every allegation of adult abuse shall be documented in a report. When documenting elder/dependent abuse cases the following information should also be included in the report:

- Current location of the victim
- Victim's condition/nature and extent of injuries, neglect or loss
- Names of agencies and personnel requested and on scene

Reporting cases of adult abuse is confidential and will only be released in accordance with the Release of Records and Information Policy.

Officers investigating adult abuse shall complete a State of California form SOC 341 (Report of Suspected Dependent Adult/Elder Abuse).

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 Banning 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.

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.

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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 Human Resource Director 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.

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.
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- (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 Human Resource Director 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.

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

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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, Human Resource Director 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 Human Resource Director if more appropriate
- 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, Human Resource Director or the City Manager, or they may contact the California Department of Fair Employment and Housing.

Child Abuse 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 Banning Police Department members are required to notify the county Child Protective Services (CPS) of suspected child abuse.

330.1.1 DEFINITIONS

Definitions related to this policy include:

Child - Unless otherwise specified by a cited statute, a child is any person under the age of 18 years.

Child abuse - Any offense or attempted offense involving violence or neglect with a child victim when committed by a person responsible for the child's care or any other act that would mandate notification to a social service agency or law enforcement (Penal Code § 11165.9; Penal Code § 11166).

330.2 POLICY

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

330.3 MANDATORY NOTIFICATION

The child protection agency shall be notified when (Penal Code § 11166):

- (a) There is a known or suspected instance of child abuse or neglect reported, which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or
- (b) A person responsible for the child's welfare fails to adequately protect the child from abuse when the person knew or reasonably should have known that the child was in danger of abuse.

The District Attorney's office shall be notified in all instances of known or suspected child abuse or neglect reported to this department. Reports only involving neglect by a person, who has the care or custody of a child, to provide adequate food, clothing, shelter, medical care or supervision where no physical injury to the child has occurred should not be reported to the District Attorney (Penal Code § 11166).

When the abuse or neglect occurs at a licensed facility or is alleged to have resulted from the actions of a person who is required to have a state license (e.g., foster homes, group homes, day care), notification shall also be made to the California Department of Social Services or other applicable licensing authority (Penal Code 11166.1; Penal Code 11166.2).

For purposes of notification, the abuse or neglect includes physical injury or death inflicted by other than accidental means upon a child by another person; sexual abuse (Penal Code § 11165.1); neglect (Penal Code § 11165.2); the willful harming or injuring of a child or the endangering of the person or health of a child (Penal Code § 11165.3); and unlawful corporal punishment or injury (Penal Code § 11165.4). Child abuse or neglect does not include a mutual affray between minors, nor does it include an injury caused by the reasonable

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and necessary force used by a peace officer acting within the course and scope of his/her employment as a peace officer.

330.3.1 NOTIFICATION PROCEDURE

Notification should occur as follows (Penal Code § 11166):

- (a) Notification shall be made immediately, or as soon as practicable, by telephone, fax or electronic transmission.
- (b) A written follow-up report should be forwarded within 36 hours of receiving the information concerning the incident.

330.4 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).

330.5 INVESTIGATIONS AND REPORTING

In all reported or suspected cases of child abuse, a report will be written. Officers shall write a report even if the allegations appear unfounded or unsubstantiated.

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.

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- (j) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

All cases of the unexplained death of a child should be investigated as thoroughly as if it had been a case of suspected child abuse (e.g., a sudden or unexplained death of an infant).

330.5.1 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).

330.6 PROTECTIVE CUSTODY

Before taking any child into protective custody, the officer should make reasonable attempts to contact CPS. Generally, removal of a child from his/her family, guardian or other responsible adult should be left to the child welfare authorities when they are present or have become involved in an investigation.

Generally, members of this department should remove a child from his/her parent or guardian without a court order only when no other effective alternative is reasonably available and immediate action reasonably appears necessary to protect the child. Prior to taking a child into protective custody, the officer should take reasonable steps to deliver the child to another qualified parent or legal guardian, unless it reasonably appears that the release would endanger the child or result in abduction. If this is not a reasonable option, the officer shall ensure that the child is delivered to CPS.

Whenever practicable, the officer should inform a supervisor of the circumstances prior to taking a child into protective custody. If prior notification is not practicable, officers should contact a supervisor promptly after taking a child into protective custody.

Children may only be removed from a parent or guardian in the following situations when a court order cannot reasonably be obtained in a timely manner (Welfare and Institutions Code § 305):

- (a) The officer reasonably believes the child is a person described in Welfare and Institutions Code § 300, and further has good cause to believe that any of the following conditions exist:
 - 1. The child has an immediate need for medical care.
 - 2. The child is in immediate danger of physical or sexual abuse.
 - 3. The physical environment or the fact that the child is left unattended poses an immediate threat to the child's health or safety. In the case of a child left unattended, the officer shall first attempt to locate and determine if a responsible parent or guardian is available and capable of assuming custody before taking the child into protective custody.
- (b) The officer reasonably believes the child requires protective custody under the provisions of Penal Code § 279.6, in one of the following circumstances:
 - 1. It reasonably appears to the officer that a person is likely to conceal the child, flee the jurisdiction with the child or, by flight or concealment, evade the authority of the court.

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2. There is no lawful custodian available to take custody of the child.
 3. There are conflicting custody orders or conflicting claims to custody and the parties cannot agree which party should take custody of the child.
 4. The child is an abducted child.
- (c) The child is in the company of, or under the control of, a person arrested for Penal Code § 278 or Penal Code § 278.5.

A child taken into protective custody shall be delivered to CPS unless otherwise directed by court order.

330.6.1 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.

330.6.2 NEWBORNS TESTING POSITIVE FOR DRUGS

Under certain circumstances, officers can be prohibited from taking a newborn who is the subject of a proposed adoption into protective custody, even when the newborn has tested positive for illegal drugs or the birth mother tested positive for illegal drugs.

Officers shall instead follow the provisions of Welfare and Institutions Code § 305.6 to ensure that the newborn is placed with the adoptive parents when it is appropriate.

330.7 INTERVIEWS

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

330.7.2 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.
-

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330.7.3 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).

330.8 MEDICAL EXAMINATIONS

If the child has been the victim of abuse that requires a medical examination, the investigating officer should obtain consent for such examination from the appropriate parent, guardian or agency having legal custody of the child. The officer should also arrange for the child's transportation to the appropriate medical facility.

In cases where the alleged offender is the custodial parent or guardian and is refusing consent for the medical examination, officers should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide for officers to take the child for a medical examination, the notified supervisor should consider obtaining a court order for such an examination.

330.9 DRUG-ENDANGERED CHILDREN

A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of children exposed to the manufacturing, trafficking or use of narcotics.

330.9.1 SUPERVISOR RESPONSIBILITIES

The Detective Bureau supervisor should:

- (a) Work with professionals from the appropriate agencies, including CPS, other law enforcement agencies, medical service providers and local prosecutors to develop community specific procedures for responding to situations where there are children endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.
- (b) Activate any available interagency response when an officer notifies the Detective Bureau supervisor that the officer has responded to a drug lab or other narcotics crime scene where a child is present or where evidence indicates that a child lives there.
- (c) Develop a report format or checklist for use when officers respond to drug labs or other narcotics crime scenes. The checklist will help officers document the environmental, medical, social and other conditions that may affect the child.

330.9.2 OFFICER RESPONSIBILITIES

Officers responding to a drug lab or other narcotics crime scene where a child is present or where there is evidence that a child lives should:

- (a) Document the environmental, medical, social and other conditions of the child using photography as appropriate and the checklist or form developed for this purpose.
- (b) Notify the Detective Bureau supervisor so an interagency response can begin.

330.10 STATE MANDATES AND OTHER RELEVANT LAWS

California requires or permits the following:

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330.10.1 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).

330.10.2 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.

330.10.3 CACI HEARING OFFICER

The Detective Bureau 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.

330.10.4 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.

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

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330.10.5 CHILD DEATH REVIEW TEAM

This department should cooperate with any interagency child death review team investigation (Penal Code § 11174.32).

330.11 TRAINING

The Department should provide training on best practices in child abuse investigations to members tasked with investigating these cases. The training should include:

- (a) Participating in multidisciplinary investigations, as appropriate.
- (b) Conducting forensic interviews.
- (c) Availability of therapy services for children and families.
- (d) Availability of specialized forensic medical exams.
- (e) Cultural competence (including interpretive services) related to child abuse investigations.
- (f) Availability of victim advocate or guardian ad litem support.

Child Protective Services and Adult Protective Services Referrals

331.1 PURPOSE AND SCOPE

The purpose of this General Order is to establish Department Procedure for the investigation of Child Protective Services (CPS) and Adult Protective Services (APS) non-emergency referrals. This General Order is in addition to Banning Police Department's Policy and Procedures § 600 (Investigation Operations), § 326 (Elder Abuse) and § 330 (Child Abuse Reporting). This General Order supercedes all previous General Orders and/or past practice in regards to the investigation of CPS/APS referrals.

331.1.1 CPS/APS NON-EMERGENCY REFERRAL DEFINITION

A Non-Emergency CPS/APS Referral is defined as a document and/or information received by the Banning Police Department from a Mandatory Reporting Agency either by mail, FAX, telephone, etc. A non-emergency CPS/APS referral will not elicit an immediate police response to danger of life. Referrals and information of this nature are often referred to as "Agency Cross Reports".

331.1.2 PROCEDURE

The Patrol Division will conduct the preliminary investigation of non-emergency CPS/APS referral as a call for service.

331.2 INVESTIGATION RESPONSIBILITY

Patrol is responsible for the preliminary investigation of all CPS/APS referrals.

Detectives are responsible for all follow-up investigations of the preliminary patrol investigation, which is also defined in § 600 of the Banning Police Department Policy and Procedure Manual.

331.3 DISTRIBUTION AND CASE TRACKING RESPONSIBILITY

The Detective Bureau Supervisor is responsible for review and case tracking of referrals received by the Banning Police Department. The Detective Bureau Supervisor is also responsible for the distribution of the referrals to the Patrol Division.

The Patrol Supervisor is responsible for assigning referrals to patrol officers and review of the preliminary investigation. The Patrol Supervisor is responsible for forwarding the preliminary CPS/APS referral investigation to the appropriate resource for completion or further investigation (example: D.B., CPS, APS, Records, Courts, etc.).

Missing Persons

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

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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).
 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.

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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 Records Bureau.

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 RECORDS BUREAU 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 Detective Bureau.

332.7 DETECTIVE BUREAU FOLLOW-UP

The investigator assigned to a missing person investigation:

- (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).

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- (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 Supervisor shall ensure that, upon receipt of information that a missing person has been located, the following occurs:

- (a) Notification is made to California DOJ.
- (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 Detective Bureau 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 City of Banning 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.

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- (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.

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 groups 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 Banning Police Department should notify their supervisor, Watch Commander or Detective Bureau 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 Commander and the Press 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 Commander

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.

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.

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- (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

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).
- (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.

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- (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
- (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.

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334.6.2 PROCEDURE FOR SILVER ALERT

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

334.7 MUTUAL AID

The experiences of other law enforcement jurisdictions that have implemented similar plans indicate an AMBER Alert or Blue Alert will generate a high volume of telephone calls to the handling agency.

The Sheriff's Department Emergency Communications Bureau facilities and staff can be made available in the event of a high call volume.

If the Watch Commander or Detective Bureau Supervisor elects to use the services of the Sheriff's Department, the following will apply:

- (a) Notify the Sheriff's Department Watch Commander of the incident and the request for assistance. He/she will provide you with a telephone number for the public to call.
- (b) In the press release, direct the public to the telephone number provided by the Sheriff's Department Watch Commander.
- (c) The Press Information Officer will continue to handle all press releases and media inquiries. Any press inquiries received by the Sheriff's Department will be referred back to this department.

The Banning Police Department shall assign a minimum of two detectives/officers to respond to the Sheriff's Department Emergency Communications Bureau to screen and relay information and any clues received from incoming calls. As circumstances dictate, more staff resources from the handling law enforcement agency may be necessary to assist the staff at the Emergency Communications Bureau.

Victim Witness Assistance Program

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 Banning Police Department is committed to providing guidance and assistance to the victims and witnesses of crime. The employees of the Banning 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 Banning 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 Administration 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.
- (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)).

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- (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.

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.

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).

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.

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- (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.

338.4 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 DETECTIVE BUREAU RESPONSIBILITY

If a case is assigned to the Detective Bureau, 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

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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. 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.
- (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.

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- (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.

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

- (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.
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- (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.
- (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

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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.
- (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.

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- (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.
- (b) Unauthorized access to any database, record, file, or report for any reason other than a specific law enforcement purpose.
- (c) Failure to log out of the department's Record Management Information System (RIMS) program, when left unattended, regardless of the duration.

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.

340.4.1 WRITTEN REPRIMANDS

Any employee wishing to formally appeal a written reprimand must submit a written request to his/her Division Lieutenant within ten days of receipt of the written reprimand. The Division Lieutenant will then assign the appeal to an uninvolved supervisor of at least one rank above the rank of the supervisor issuing the original written reprimand.

Absent a written stipulation to the contrary, the employee will be provided with an evidentiary hearing before the assigned, uninvolved supervisor within 30 days. The decision of the assigned, uninvolved supervisor to sustain, modify or dismiss the written reprimand shall be considered final.

340.5 POST INVESTIGATION PROCEDURES

340.5.1 DIVISION LIEUTENANT RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Division Lieutenant of the involved employee shall review the entire investigative file, the employee's personnel file and any other relevant materials.

The Division Lieutenant may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

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- (a) Prior to forwarding recommendations to the Chief of Police, the Division Lieutenant 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 Lieutenant 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 Commander 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.

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.

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- (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, 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) and personnel rules.

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

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 Banning 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 agency's information systems staff may extract, download, or otherwise obtain any and all temporary or permanent files residing or located in or on the system.

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

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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.

Employees shall report any unauthorized access to the system or suspected intrusion from outside sources (including the Internet) to a supervisor.

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.

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It is expressly prohibited for an employee to allow an unauthorized user to access the system at any time or for any reason.

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 in the time-frame prescribed in § 344.3.3 of this policy and procedure manual.

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 by a Public Safety Dispatcher as an incident report.
- (c) In every case where any force is used against any person by police personnel.
- (d) All incidents involving Domestic Violence.
- (e) All arrests.

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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. (If not documented in a criminal or informational report, the incident shall be documented in the incident notes with block-out information on the subject(s) detained at gunpoint, why they subject(s) were detained and disposition.)
- (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 Shooting 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 a case 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.

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

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- (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 Records Bureau 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).

344.2.7 POTENTIAL PUBLICATION REGARDING VICTIMS OF SEX OFFENSES

The purpose of this section is to establish guidelines for the reporting of sex offenses as required by Penal Code § 293. Penal Code § 293 requires:

- (a) That any employee of a law enforcement agency who personally receives a report from any person, alleging that the person making the report has been the victim of a sex offense shall inform that person that his or her name will become a matter of public record unless he or she requires that it not become matter of public record, pursuant to § 6254 of the Government Code.
 1. (Any written report of an alleged sex offense shall indicate that the alleged victim has been properly informed pursuant to § 344.26 (a) and shall memorialize his or her response.
 2. No law enforcement agency shall disclose to any person, except the prosecutor the, address of a person who alleges to be the victim of a sex offense.
 3. No law enforcement agency shall disclose to any person, except the prosecutor the name of a person who alleges to be a victim of a sex offense, if that person has elected to exercise his or her right pursuant to Penal Code § 293 and § 6254 of the Government Code.
- (b) For the purposes of Penal Code § 293, sex offenses means any crime listed in paragraph (2) of Subdivision (f) of § 6254 of the Government Code which is defined in Chapter 1 (commencing with § 261) or Chapter 5 (commencing with 281) of Part 1 of the Penal Code. These include: §§ 261, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, and 422.75.

344.2.8 REPORTING PROCEDURES

- (a) Whenever an officer receives a report from any person, alleging that the person making the report has been the victim of a sex offense, the officer shall inform that person that his or her name will become a matter of public record unless he or she requests that it not become a matter of public record, pursuant to § 6254 of the Government Code.
- (b) After the alleged victim has been advised pursuant to § 344.27 (a) above, the officer will include that information, in addition to the response of the alleged victim. Example: Officer Smith advised Jones pursuant to Penal Code § 293. Jones stated, "I do not want my name in the public record."
- (c) If the alleged victim opts not to have his or her name as part of the public record, the following information shall not be released:

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1. Name of the alleged victim.
2. Address of the alleged victim.

Note: The information may be released to the prosecutor.

344.2.9 SUPERVISOR RESPONSIBILITY

It shall be the Supervisor's responsibility to assure that reports requiring a Penal Code § 293 notification are properly documented.

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.

344.3.3 TIME FRAME FOR REPORT COMPLETION BY PATROL PERSONNEL

All reports written by members of the Banning Police Department shall conform with the requirements and procedures set forth in this General Order and all other appropriate Department publications.

Patrol personnel or other officers filling assignments in the Patrol Division will not go off duty without providing the on-coming watch of the status of calls, investigations, and reports handled during their tour of duty.

- (a) All in-custody and related reports taken by patrol personnel shall be completed and submitted for approval in the following manner. (Overtime to complete in-custody reports must receive prior approval from the on-duty WC who will initial the officer's overtime sheet indicating his approval and acknowledgement of the hours used to complete the report.)
 1. Juvenile In-Custody with transport to Juvenile Hall: Report shall be completed and approved before Juvenile's arrival at Juvenile Hall. Three copies of the arrest report shall be submitted to the Juvenile Hall In-Take Office with the juvenile, as required by Riverside County Juvenile Hall.
 2. Juvenile In-Custody with release to Parents/Guardians: - Report shall be completed and approved by the end of the officers' work week in which the report was taken unless a time extension is approved by the on-duty Watch

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Commander. When giving extensions the on duty watch commander will give officers a specific date when the report is due.

3. Adult Felony In-Custody Report shall be completed, approved, and submitted to the District Attorney's Office prior to 1500 hours the day before the defendant's arraignment hearing.
 4. Adult Misdemeanor with Booking / Cite Release Report shall be completed and approved by the end of the officers' work week in which the report was taken unless a time extension is approved by the on-duty Watch Commander. When giving extensions the on duty watch commander will give officers a specific date when the report is due.
- (b) All other reports will be completed and approved within fourteen (14) days of the original report date unless a time extension is approved by the on-duty Watch Commander. When giving extensions the on duty watch commander will give officers a specific date when the report is due. (Overtime is not authorized to complete non in-custody related reports, unless the on duty Watch Commander determines that the report involves a special circumstance that requires immediate and/or sensitive attention.)
- (c) Supervisors will have the responsibility of assuring that officers comply with this directive.

344.4 REPORT CORRECTIONS

Supervisors shall review reports for content and accuracy. 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 officer to ensure that any report returned for correction is processed in a timely manner.

344.4.1 INCIDENT NOTES

When an employee responds to a call for service or is involved in self-initiated activity, the employee will document the activity with notes if a report is not warranted. The notes shall be maintained by the officer either in a notebook that they will retain for a period of no less than two years or in the notes section of RIMS under the related incident number.

The notes should be thorough enough to refresh the officer's memory should they need to recall the incident for any future follow-up investigations or is a report needs to be written at a later time.

344.5 REPORT CHANGES OR ALTERATIONS

Reports that have been approved by a supervisor and submitted to the Records Bureau 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 Records Bureau may be corrected or modified by the authoring officer only with the knowledge and authorization of the reviewing supervisor.

344.6 ELECTRONIC SIGNATURES

The Banning Police Department has established an electronic signature procedure for use by all employees of the Banning Police Department. The Patrol Lieutenant shall be responsible for maintaining the electronic signature system and ensuring that each employee creates a unique, confidential password for his/her electronic signature.

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- Employees may only use their electronic signature for official reports or other official communications.
- Each employee shall be responsible for the security and use of his/her electronic signature and shall promptly notify a supervisor if the electronic signature has or may have been compromised or misused.

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 Lieutenants, 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.
 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

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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 Dispatcher will maintain a daily "incident log" of significant law enforcement activities which 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 arrested by this department unless the release of such information 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.

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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 this department. When in doubt, authorized and available legal counsel should be obtained. Examples of such restricted information include, but are not limited to:

- (a) 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.
- (b) Copies of traffic collision reports (except to the involved parties and their authorized representatives) (Vehicle Code § 20012)
- (c) Criminal history information
- (d) Information that would tend to endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation
- (e) Information pertaining to pending litigation involving this department
- (f) Information obtained in confidence
- (g) Any information that is otherwise privileged or restricted under state or federal law. (Government Code § 6254(k)).

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.

348.2.3 ACCEPTANCE OF SUBPOENA

- (a) Only the employee named in a subpoena, his/her immediate supervisor or the department subpoena clerk 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 subpoena clerk. The

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subpoena clerk shall maintain a chronological log of all department subpoenas and provide a copy of the subpoena to each involved employee.

- (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 subpoena clerk 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)).

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 Banning Police Department shall comply with the requirements of the subpoena. Employees receiving these subpoenas are not compensated for their

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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.

348.3 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.

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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.

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.

Reserve Officers

350.1 PURPOSE AND SCOPE

The Banning 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

The Banning 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

Reserve Officers are not provided with any compensation for their work in behalf of the Department. All Reserve Officer appointees are issued all the safety equipment issued to regular sworn officers. All other equipment is purchased at the expense of the Reserve Officer. All property issued to the Reserve Officer shall be returned to the Department upon termination or resignation.

350.2.4 EMPLOYEES WORKING AS RESERVE OFFICERS

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

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 Patrol Division. Reserve officers may be assigned to other areas within the Department as needed. Reserve officers are required to work a minimum of 16 hours per month.

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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 Sergeant.

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 function as an officer with the Banning 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.

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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.

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 Commander.

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 Lieutenant, be relieved of the "immediate supervision" requirement. Level I reserve officers may function under the authority of Penal Code §

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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 Lieutenant, 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 Patrol Division Lieutenant.

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.

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.

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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 Banning 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:

- (a) All reserve officers are required to qualify at least every other month
- (b) Reserve officers may fire at the department approved range at least once each month and more often with the approval of the Reserve Coordinator
- (c) Should a reserve officer fail to qualify over a two-month period, that reserve officer will not be allowed to carry a firearm until he/she has reestablished his/her proficiency

350.7 EMERGENCY CALL-OUT FOR RESERVE PERSONNEL

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

Outside Agency Assistance

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.

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. Only in exceptional circumstances will this department provide transportation of arrestees to other county facilities.

When such assistance is rendered, a case number will be issued to report action taken by Banning Police Department Personnel. Probation violators temporarily detained by this department will not ordinarily be booked at this department.

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.

Megan's Law

356.1 PURPOSE AND SCOPE

This policy establishes guidelines by which the Banning 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.

356.2 POLICY

It is the policy of the Banning 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.

356.3 REGISTRATION

The Detective Bureau 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 by applicable law (Health and Safety Code § 11594; Penal Code § 457.1; Penal Code § 290 et seq.).

356.4 MONITORING OF REGISTERED OFFENDERS

The Detective Bureau 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.

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The Detective Bureau Supervisor should also establish a procedure to routinely disseminate information regarding registered offenders to Banning 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 the Chief of Police if warranted. A determination will be made by the Chief of Police, with the assistance of legal counsel as necessary, whether such a public alert should be made.

Members of the public requesting information on sex registrants should be provided the Megan's Law website or the Banning Police Department's website.

The Records Supervisor 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
- (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.

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- (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

Incidents that are of significant nature and that fall into listed criteria require notification to certain members of this department. It is critical that staff members are informed of certain incidents in order to apprise their superiors and properly address inquiries from members of the press.

358.2 MINIMUM CRITERIA FOR NOTIFICATION

- (a) The following incidents/situations require immediate notification to the responsible Division Lieutenant. If the Division Lieutenant is not available, the Chief of Police will need to be contacted directly.
1. All homicides or suspicious deaths.
 2. All officer involved shooting incidents (including shooting of any animal).
 3. Any discharge of a firearm - intentional, accidental (regardless of injury).
 4. All officer injuries requiring medical attention.
 5. Serious illness or hospitalization of department personnel.
 6. All officer involved traffic accidents requiring medical attention to any involved parties. (moderate-serious).
 7. Arrest, detention, or booking of any employee by other law enforcement agency.
 8. Investigations that involve criminal conduct by department employees.
 9. Pursuits that result in a collision, injury, or death.
 10. Pursuits that result in high media exposure (live TV) or unusual damage.
 11. Deaths or serious injuries to suspects in, or being taken into, custody.
 12. Any terrorism incidents.
 13. Hate crime incidents.
 14. Arrests of VIP's, notables, or outside agency sworn officers.
 15. Critical incidents, local disasters, 11-99.
 16. Media note-worthy breaking events (bank robbery, hostage situation, home invasion robbery).
 17. SEB, HDT, activations.
 18. High profile search warrants.
 19. Search and rescue operations
 20. Evacuations of any type.
- (b) When notifying the Division Lieutenant or Chief of Police, the following format should be adhered to:
1. Brief of incident/problem.
 2. Provide names and phone numbers if necessary.
 3. Response plan initiated.
 4. Resources deployed.
-

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Major Incident Notification

5. Notifications initiated.
6. Proposed plan for consideration.
7. Tactics or plan for incident.
8. Provide a primary and/or secondary plan.

358.3 WATCH COMMANDER RESPONSIBILITY

The Watch Commander is responsible for making the appropriate notifications. The Watch Commander shall make reasonable attempts to obtain as much information on the incident as possible before notification. The Watch Commander shall attempt to make the notifications as soon as practical. Notification should be made by calling the home phone number first and then by cell phone and/or pager.

358.3.1 STAFF NOTIFICATION

In the event an incident occurs described in Policy Manual § 358.2, the Chief of Police shall be notified along with the affected Division Lieutenant.

358.3.2 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.

358.3.3 TRAFFIC BUREAU NOTIFICATION

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

358.3.4 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.

Incident Debriefing

359.1 PURPOSE AND SCOPE

The purpose of this General Order is to identify which department personnel should attend Incident Debriefings.

359.2 POLICY FOR INCIDENT DEBRIEFINGS

When a supervisor determines that an incident debriefing is necessary then the following procedure shall be followed:

- (a) The supervisor conducting the debriefing shall make arrangements as soon as reasonably possible for all department personnel involved in the incident to attend the debriefing. This includes officers, dispatchers, volunteers, and other department employees that may have been involved in the incident.
- (b) The debriefing will be conducted in a manner where everyone involved is allowed the opportunity to speak freely and provide constructive criticism or praise.
- (c) If during the debriefing issues arise that are in direct conflict with the department's manual then the supervisor in charge of the debriefing shall submit a memo, via chain of command, to the Chief of Police identifying what the conflict was and recommendations on how to avoid the conflict in the future.

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.

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.
- (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.

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- (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.

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 a death shall be documented as prescribed by policy § 344.2.3.

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.

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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)).

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.

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

Reporting Damage to Department Vehicles

363.1 PURPOSE AND SCOPE

The purpose of this order is to establish accountability toward unreported damage to patrol units and all other department vehicles. The damage that shall be reported is as follows but is not limited to, obvious traffic collision damage, dents, scrapes, gouges, etc. Administration and the City Yards personnel are well aware of the normal wear and tear of police vehicles and damage will be considered on a case by case basis.

363.2 POLICY

All patrol officers and those with assigned take home units shall inspect their vehicle at the beginning of each shift. Any damage found will be reported to their supervisor immediately. Patrol shall inspect their vehicle before leaving the pit area prior to any call for service. If an officer leaves for an in progress call prior to checking his or her unit and then later returns and locates damage to that unit, they will be held responsible for the damage. In the likely event that an officer has to drive other than their assigned unit, they shall inspect which ever unit they drive for that day.

363.2.1 DAMAGE REPORTING

Officers shall write a memorandum to their respective Lieutenant describing in detail the damage found on the vehicle. The officer will also complete the Patrol Car Diagram showing where the damage is located on the vehicle.

The damage noted in this memorandum and diagram will be compared against the unit damage log located in the Watch Commander's Office.

363.2.2 SUPERVISOR RESPONSIBILITIES

The Supervisor will check to see if the noted damage in the report is consistent with the damage to the vehicle. A copy shall be placed in a book which will be provided and maintained in the Watch Commander's Office. The signed original will go to administration.

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.
 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

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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.

Community-Oriented Policing

365.1 PURPOSE AND SCOPE

The City of Banning has developed a Community-Oriented Policing (COP) strategy to identify, analyze, and resolve the crime, disorder and service problems that most effect the public and diminish the resources of the Police Department. In developing this strategy, it is recognized that community institutions are key partners with the Police Department in the creation of a safe, secure community. It is further recognized that the Department cannot succeed in achieving either its basic goals or the goals of this program without both the operational assistance and political support of the community.

The City shall institutionalize the use of this strategy so that problem solving becomes more strongly integrated into routine police activities. As this approach involves police personnel working together with municipal and community resources in the delivery of law enforcement and community services, it is consistent with the mission, goals and values of the Department.

365.2 COMMUNITY-ORIENTED POLICING POLICY

It is the policy of the Banning Police Department to encourage and support employees in the use of the Community-Oriented Policing strategy, in accordance with the procedures set forth herein.

365.2.1 DEFINITION OF TERMS

- (a) **Event** - An occurrence at a single time and place that harms or threatens to harm one or more individuals.
- (b) **Problem** - A group of events, similar in one or more ways, occurring in the community, that are of concern to the police and the public.
- (c) **Community-Oriented Policing Strategy** - A process comprised of four stages:
 1. **Scanning** - Identifying potential problems and determining if more attention is required.
 - (a) Some problems identified during this process may be so severe as to warrant immediate action, which should be taken as dictated and documented as part of the screening process.
 2. **Analysis** - Finding the characteristics, scope, consequences, and causes of the problem by collecting information from all appropriate sources. After the analysis is complete the problem needs to be clarified and a determination made as to whether the problem exists as originally stated. All parties should be in agreement as to the nature of the problem before action is taken.
 3. **Response** - Developing and implementing a solution to the problem by working with whatever public and private organizations and individuals are appropriate.
 4. **Assessment** - Determining whether the response was implemented correctly and whether it had the desired effect on the problem.
 5. **Problem Analysis Model.** Guidelines for aiding in the analysis of problems. This set of guidelines is to be used in the analysis stage of the Community-Oriented Policing strategy and is comprised of a three-part checklist, as follows:

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- (a) **Players**-The characteristics and role of victims, offenders, and third parties (e.g. witnesses, residents, bystanders, informants, and others) who are impacted by, and/or involved in, the problem.
 - (b) **Incidents** - The characteristics and role of the physical setting and social context where the problem takes place, and also the actions of the players before, during, and after the events that create the problem.
 - (c) **Responses** - The reactions of the citizens and public and private organizations to the occurrences of the events that make up the problem.
- 6. **Planning Coordinator** - The person designated by the Chief of Police to coordinate the total efforts of the Police Department, municipal and community resources, in the COP strategy.
 - 7. **Patrol Coordinator** - The Patrol Officer designated to coordinate the solving of each specific problem identified by this process. Normally the Patrol Coordinator will be the Officer most familiar with the problem who is working the shift during which the problem is most prevalent.
 - 8. **Task Force** - A group of individuals representing various Police Department, municipal and community concerns.

365.3 STRATEGY ADMINISTRATION

- (a) The Division Lieutenant and each supervisor is responsible for ensuring that officers and civilian employees are familiar with the COP strategy, and for insuring that the proper support is available for its use in addressing crime, disorder, and service problems.
- (b) A COP Task Force will be created to address, guide, and support Departmental efforts in using the COP strategy.
 - 1. This Task Force will be comprised of, but not limited to, members from the following areas: Police Department personnel, Code Enforcement, City Engineer, Building Official, City Planner.. Fire Department, and, when appropriate, community representatives and representatives of other governmental agencies (Health Department, Parole/Probation, etc.).
 - 2. Task Force members will hold discussions and brainstorming sessions to discuss various methods of solving problems and making recommendations to the Chief of Police on utilization of Police Department, municipal, and community resources.
 - 3. Normally, a supervisor will be appointed as the COP Task Force Planning Coordinator, and will be responsible for carrying out tasks needed and/or recommended by the COP Task Force.
 - 4. The Task Force will meet as needed. The Chief of Police or his designated representative shall chair the meetings.

365.4 PLANNING COORDINATOR DUTIES

The Planning Coordinator will assist in supporting the Task Force effort by:

- (a) Coordinating the analysis and action plan of the selected problems, upon the direction of the Chief of Police.
- (b) Tracking the performance of the Task Force Efforts.
- (c) Maintaining records, developing strategies, and initiating correspondence pertinent to the Task Force efforts.

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365.4.1 ADDITIONAL DUTIES

The Division Lieutenant and all supervisors assist the Task Force as appropriate on some or all stages of the COP strategy.

365.5 IMPLEMENTATION

- (a) The Division Lieutenant and all supervisors will be responsible for seeing that problems in their areas of responsibility are identified. This will be accomplished in four ways:
 - 1. Officer-initiated efforts. The Division Commander and all supervisors will encourage officers and other personnel to identify possible or actual problem areas.
 - 2. Externally initiated efforts. Supervisors will assign potential problems to their officers, based on complaints received from citizens, either known or anonymous.
 - 3. Supervisor-initiated efforts. Supervisors will identify potential problems and assign them to officers or civilians under their supervision, After preliminary Investigation, the supervisor and officer/civilian will determine if a problem exists that can be addressed using the COP strategy.
 - 4. COP Task Force initiated efforts. The Chief of Police, Division Lieutenant and supervisors will review patterns and trends identified by Departmental activity and by the Task Force, to determine if the problems are appropriate for the application of the POP strategy.
- (b) Watch Commanders have the responsibility and authority to allocate their resources in a manner that ensures that the COP strategy is implemented.
 - 1. When the decision is made that the problem should be addressed using COP, the Watch Commander will ensure that a Problem Analysis Report is completed by the Patrol Coordinator and forwarded to the COP Task Force. Watch Commanders will support the Patrol Coordinator in his/her specific problem assignment and assure that the Patrol Coordinator has sufficient time free from other duties to address the assigned problem.
- (c) The Task Force will discuss and analyze methods and response options, and assess results, at regularly scheduled meetings. Task Force meetings will help to ensure that duplication of effort is avoided and that the COP strategy is fully understood and used.
- (d) Personnel will present problems to the Task Force, using the Problem Analysis Report, early in the analysis stage of the strategy.
- (e) Department members identifying and handling problems are to complete the Problem Analysis Report during the course of their work on the problem, and submit the form to the Planning Coordinator. At the completion of the problem- solving effort, the form is to be used as a cover sheet for submission of all pertinent information and for filing. The form can also be used to inform supervisors of progress throughout the COP effort.
- (f) The Division Lieutenant will ensure that the COP Task Force, through the Planning Coordinator:
 - 1. Looks for and identifies trends and patterns in crimes that could be symptoms of problems. Watch Supervisors will be notified of possible problems.

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2. Provides requested information to Department members who are addressing problems. Requests for information should be directed to the Planning Coordinator and recorded on the POP form.
- (g) The Planning Coordinator will maintain files on COP efforts that will be available for use and review by Department members handling problems, supervisors, and management staff.
- (h) The Planning Coordinator will be responsible for coordinating site visits and disseminating information requested by individuals and organizations outside the Department.

365.6 SYSTEMS EVALUATION

The Planning Coordinator will provide the Chief of Police and Task Force with monthly reports of the status of all problems addressed, during the previous week, and a progress report on those problems that are in the response mode of the COP strategy.

365.7 FISCAL YEAR REPORTS

The Planning Coordinator will issue a fiscal year report to the Chief of Police and Task Force on the problems addressed during the period of the report. The Planning Coordinator will consult with members of the Task Force and Departmental members who have been assigned to handle the problems, and will also review the COP problem analysis report in the preparation of the report. The annual report on problem solving will include summaries of the problems, the efforts that were taken to solve those problems, and recommendations for modification of the COP strategy.

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 Special Operations Lieutenant.
- (c) By the tenth day of each month, it shall be the responsibility of the Investigation Division Lieutenant 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.
 2. Any ARRC(s) reported in the Summary Worksheet shall be accompanied by a copy of the related Data Collection Worksheet(s).

Chaplain Program

367.1 PURPOSE AND SCOPE

The purpose of the Chaplain Program is to provide Department members and their family access to clergy from the religious community.

367.1.1 CHAPLAIN PROGRAM DEFINED

- (a) The Police Department Chaplain Program is an integral part of the Department Employee Assistance Program.
- (b) Police Chaplains are available to assist members of the Department in any variety of situations in which a religious counselor would be of benefit (e.g., death notifications, serious injury notifications, Intra-family crisis situations, or injury of police officers, etc.). These chaplains have completed a selection process and background investigation, and are volunteer members of the Department.
- (c) Members of the Department are encouraged to request the assistance of a chaplain in any case where they may be helpful, regardless of the nature of situation.

367.2 CHAPLAIN SELECTION PROCESS

- (a) Qualifications and qualities for appointment to the Chaplain Program:
 - 1. Police Department Chaplains are classified as volunteers.
 - 2. Departmental Chaplains shall be appointed by the Chief of Police. The tenure of service is at the discretion of the Chief of Police.
 - 3. Is an ordained or licensed member of the clergy in good standing or retired in good standing. Withdrawal of religious organizations' endorsement of a chaplain brings immediate separation from duty with Banning Police Department.
 - 4. The prospective chaplain must have a minimum of five (5) years of experience in the ministry.
 - 5. The prospective chaplain must have a written endorsement to participate in the Chaplain program from a recognized body.
 - 6. Relates easily to people.
 - 7. Maintains high spiritual and moral standards.
 - 8. Manifests a broad base of experience and professional maturity, emotional stability, and personal flexibility.
 - 9. Is willing to respond to situations where a chaplain's presence on a 24-hour call basis.
 - 10. Demonstrates a willingness to ride with patrol officers.
 - 11. Willingness to participate in appropriate training courses, seminars, conferences either directly or indirectly related to his/her role as a chaplain.
 - 12. Never convicted of a felony or offenses involving moral turpitude.
 - 13. Successful completion of a background investigation.
 - 14. Willingness to participate in appropriate Chaplains Association.

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367.3 DUTIES AND RESPONSIBILITIES

367.3.1 GENERAL

- (a) As a specialist in the field of religious guidance, the police chaplain should be an advisor of the Chief of Police in all matters pertaining to moral, spiritual and religious welfare of police personnel.
- (b) Law enforcement officers often feel the need of a neutral person in whom to confide more freely than they might with their supervisors, fellow officers, members of their families, or their clergy, especially in death, serious injury or job-related crisis. Furthermore, much of the effort and manpower of the department is devoted to community services not directly related to crime. Some of these services may be rendered or followed up on by the chaplain.
- (c) The police chaplain should be available, as requested, to enforcement officers and their families in times of personal stress and/or crisis.
- (d) The police chaplain should assist department officials in making notifications to families of officers receiving serious injury or upon the death of a law enforcement officer.
- (e) The police chaplain should be encouraged to visit sick and injured enforcement personnel at home or in the hospital.
- (f) The police chaplain may wish to make appointments for counseling or make referrals involving marital disputes or quarrels, as the situation indicates, to professionally accredited counseling services.
- (g) No person who provides chaplain services to members of the department may work or volunteer for the Banning Police Department in any capacity other than that of chaplain.

367.3.2 FIELD SITUATIONS

- (a) The police chaplain should be encouraged to ride in a police car on patrol. When it is necessary, the Department shall authorize the police chaplain to ride. This should be done frequently during the initial orientation of a police chaplain and be continued as an on-going activity at least once monthly to keep the chaplain in touch with pressures and problems that confront men and women on the street. This will give officers the opportunity to discuss situations when they have tried to help persons in crisis.
- (b) As a consultant to officers in family crisis and stress situations, the police chaplain should assist officers to do their jobs. In these cases, the police chaplain shall not intervene unless requested to do so by the officer.
- (c) The police chaplain should be available to any officer to assist in any crisis situation the officer is encountering. This may be as a consultant or assistant to the officer who is actually conducting the investigation.
- (d) The law enforcement chaplain may be called to assist law enforcement officers when there is an accident involving serious injury and when there is need to provide comfort to injured parties and their families.
- (e) The law enforcement chaplain should counsel law enforcement officers in dealing with possible religious frauds, seeking to take advantage of the community.

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367.3.3 DEPARTMENT ADMINISTRATION AND TRAINING

- (a) Law enforcement chaplains shall serve in ceremonial functions, consistent with their positions: funeral and memorial services where they represent the police department; and at academy graduations, and religious and civil ceremonies.
- (b) The law enforcement chaplain should coordinate and plan religious services and/or religious education are programs for the department, incarcerated persons, and community.
- (c) The law enforcement chaplain should make presentations to new employees. These presentations may deal with personnel and family orientation, personal stress, family crisis intervention, or acquainting officers with the services of the law enforcement chaplain.
- (d) The police chaplain should attend training activities.
- (e) Police chaplains should frequently attend roll calls/briefings, even though they may or may not take active parts.
- (f) Police chaplains should be on call through police dispatchers.
- (g) Police chaplains should follow proper agency procedures as prescribed in the operations manuals of the Banning Police Department.
- (h) The police chaplain should be familiar with communication procedures established by the Banning Police Department and should conform to them (i.e., the "radio signal" code). Radio transmissions should be kept to a minimum and directives from police dispatchers should be followed promptly. The police chaplain on duty should be available to the dispatcher at all times, either by radio or telephone.
- (i) The police chaplain should be subject to proper protocol procedures and discipline and should report to the investigating officer when arriving at the scene of an emergency.
- (j) The police chaplain should make regular reports of activities as required by Banning Police Department.
- (k) Police chaplains should not release any information to the news media, insurance agencies or attorneys regarding cases where they are involved. All information secured should be held in confidence and used only for the benefit of the person or officer involved.

367.3.4 RELATIONSHIP WITH THE MINISTERIAL COMMUNITY

- (a) The policy chaplain should act as liaison between the local ministerial alliance or association and the enforcement agency.
- (b) The police chaplain should maintain professional relationships with the clergy of the community at all times.
- (c) The police chaplain should make referrals of persons in crisis to clergy of their choice, as soon as possible.
- (d) The police chaplain should not usurp the position of pastor or clergy, or act in an unethical way at any time.
- (e) 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.

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- (f) Chaplains may not accept gratuities for any service or follow-up contact that was provided while functioning as a chaplain for the Banning Police Department.

367.3.5 SERVICE TO THE COMMUNITY

- (a) The police chaplain should minister to any family in a crisis situation involves the police department, whether bodily injury, mental disturbance or other occasions at the discretion of the investigating officer. The chaplain shall minister to victims and members of families in a meaningful way.
- (b) The police chaplain shall seek to contact, as soon as possible, the clergy or minister representing the faith of victims of crisis or emergency situations, so the victims can be ministered to by individuals off on a continuing basis.
- (c) The police chaplain should make death notifications as requested by the police dispatcher (homicide, suicide, accidental or natural death are cases when it would be helpful for a police chaplain to be accompanied by an officer, when delivering a death notice, deal mentally ill persons, an attempted suicide, or a confused elderly wandering the streets. Police chaplains may request that officers accompany them.
- (d) The police chaplain should seek to counsel and minister to persons attempting suicide and families of those who have committed Suicide.
- (e) Because of orientation in religion and psychology, the police chaplain should work with domestic disturbances, the mentally disturbed, situations, neighborhood problems, racial problems, religious fraud and others. The orientation may be utilized at the discretion of the agency.
- (f) The police chaplain should become involved in domestic situation when the Department feels that the chaplain's services may be families involved.
- (g) The police chaplain should counsel with youth of the community families when there is a request.
- (h) The police chaplain should console and comfort victims and relatives in community disasters, such as floods, fires, tornadoes and explosions.

367.4 OPERATION OF THE CHAPLAIN PROGRAM

- (a) The Chaplain Program will operate directly from the Office of the Chief of Police.
- (b) A Chaplain Program Coordinator (sworn officer) will be appointed by the Chief of Police. The Chief of Police will appoint one chaplain as the Senior Chaplain.
- (c) The Senior Chaplain will be responsible for supervision of the other chaplains, and in this role acts with the authority of the Chief of Police.
- (d) The Senior Chaplain will maintain a current roster of the Department's chaplains, a call-out rotation list and chaplain activity log. He will make certain that the Dispatcher is provided with' all updates to the call-out rotation list.
- (e) The Senior Chaplain will prepare an annual report to be given to the Chief of Police, which summarizes chaplain activities for the previous year.
- (f) The Chief of Police, the Senior Chaplain, and the Chaplain Program Coordinator shall meet on a periodic basis for the purpose of coordinating or guiding the program.

367.5 REGULATIONS AND PROCEDURES

- (a) Chaplains have the authority to charge telephone calls to the Department in cases where long distance calls are necessary in connection with Departmental business.

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- (b) Chaplains shall not publicly criticize the action of any law enforcement officer, Departmental official, fellow chaplain, or Departmental policy or action. Any chaplain having a grievance is expected to take up the matter through proper official channels starting with the Senior Chaplain.
- (c) Chaplains shall not release any information to the news media, insurance agencies, or attorneys regarding any case. All information is expected to be held in confidence and used only for the benefit of the person or officers involved.

367.6 DEVELOPING THE CHAPLAIN'S ROLE

- (a) Counseling of Departmental Personnel - Counseling is an important phase of the chaplain's work. At the request of the officer, the chaplains are encouraged to provide counseling and consultation (according to their training, skills and time available) for departmental personnel and their families in personal, marital, family, job-related and other problems. It is understood that this will be on a short-term basis.
- (b) Confidentiality - The Department employee who comes to the chaplain for counseling should clearly understand that this is an "off the record" and privileged communication which will not be reported to the Department administration or have any bearing on his/her job status. This element of confidentiality is crucial to the overall effectiveness of the chaplains in their rapport with Departmental personnel.
 - 1. 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.
 - 2. No chaplain shall provide counsel to or receive confidential communications from any Banning Police Department employees concerning an incident personally witnessed by the chaplain or concerning an incident involving the chaplain
- (c) Referral to Other Professional Resources - If, in a chaplain's opinion, a long term counseling program is desirable for a particular Department employee or family member, he/she may refer the individual to the Departmental psychiatrist, an appropriate community agency or to a therapist in private practice.
- (d) Record of Next of Kin and Religious Affiliation - Next of kin and religious affiliation may be kept on each officer's personnel card, at the officer's discretion. This information is important when an officer has been seriously injured or has died in the line of duty, so that emergency notification by the police chaplain and Department staff can be made expeditiously to the next of kin.

367.7 DEPARTMENTAL REQUIREMENTS

367.7.1 PROCESSING

- (a) Each chaplain is issued a police identification, radio set belt holder, and a jacket with appropriate insignia.
- (b) The Department will maintain a permanent ride-along release form on file for each chaplain.
- (c) Each chaplain has authorization to ride any time desired, provided:

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1. He/she is an identified member of the Banning Police Department's Chaplain Program.
 2. A completed Ride-along Form is on file with the Department.
 3. There is availability of a patrol unit.
 4. Chaplains will be given preference over other citizens in the scheduling of a ride-along.
- (d) Each chaplain may be issued a portable radio upon his/her request for a tour of duty.
- (e) The Watch Commander/supervisor is to be notified of requests for ride-alongs and make the appropriate assignment.
- (f) All measures should be exercised so as not to expose the members of this program to any danger.
- (g) Each chaplain is required to complete a minimum of four (4) hours of ride-along per month, in addition to other duties.

367.7.2 SERVICE REQUESTS WHEN NO CHAPLAIN IS ON DUTY

- (a) Approval for call-in of a chaplain must come from the Watch Commander/Supervisor, Division Lieutenant, or the Chief of Police.
- (b) Once the need has been established, the Watch Commander/Supervisor or dispatcher shall place a call to the next available Chaplain on the rotation list maintained in the Dispatch Area until a chaplain has been located.
- (c) In the event an officer, or other Department employee, and/or his/her family desire counsel with the chaplain, the employee should place a telephone request to the chaplain of his/her choice in order to secure an appointment.

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 Banning 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 Banning 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 enforcement contacts and circumstances will vary considerably. This analysis, therefore, must remain flexible and will require an ongoing balance of four factors, which are:

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- (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

Banning 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. The LEP Coordinator will arrange to make these translated documents available to members and other appropriate individuals, as necessary.

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 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

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

Authorized interpreters must pass a screening process established by the LEP Coordinator which demonstrates that their skills and abilities include:

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

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 individuals. For example, children should not be relied upon except in exigent or very informal and non-confrontational situations.

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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 Banning Police Department will take reasonable steps and will work with the Department of Human Resources 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 Dispatch, 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 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.

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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.

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

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interpreter or translated forms, as appropriate. Complaints will be referred to the LEP Coordinator.

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

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

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

368.17.1 TRAINING FOR AUTHORIZED INTERPRETERS

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

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

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

Animal Complaints

369.1 PURPOSE AND SCOPE

It is the policy of the Banning Police Department to respond to all animal complaints and incidents in a timely and appropriate manner consistent with current laws.

369.2 DEPARTMENT RESPONSIBILITIES

- (a) During Animal Control work hours all complaints of animal related incidents will be referred to Animal Control.
- (b) Animal Control work hours are: 8:00 A.M. to 4:00 P.M. daily, except holidays.
- (c) Public Shelter Hours for the shelter are 8:00 A.M. to 6:00 P.M. Tuesday - Friday, 8:00 A.M. to 5:00 P.M. Saturday, closed Sundays, Mondays and holidays.
- (d) After hours, complaints on animal related incidents will be handled as follows:
 1. Emergencies will be referred to an off-duty Animal Control Officer.
 2. Emergencies are defined as injured animals, dog bites, vicious animals endangering humans, etc.
 3. Supervisor approval is required prior to emergency call-out off-duty Animal Control Officer.

369.3 ANIMAL CONTROL RESPONSIBILITIES

- (a) Enforcement of California laws and Banning Municipal Code.
- (b) Taking custody of stray and injured animals.
- (c) Investigation of-animal noises, bites, and cruelty complaints.
- (d) Although Animal Control has primary responsibility for animal cruelty investigations, the Banning Police Department will assist in these investigations where appropriate.
- (e) Banning Police Officers will respond to animal bite complaints when Animal Control is unavailable, and gather information necessary for completion of the bite investigation. All animal bite investigations shall be reported on memorandum form.
- (f) If an animal involved in the animal bite is not currently vaccinated for rabies, the animal will be quarantined at the Banning Animal Shelter or home of the dog owner.
- (g) Riverside County is a designated rabies county. Animal bites involving non-domesticated animals shall be reported to the Public Health Services, Riverside County. Public Health Services will advise what procedures shall be followed.

369.4 BANNING POLICE DEPARTMENT PROCEDURES

- (a) Animal complaints received during Animal Control work hours will be referred to Animal Control.
- (b) Banning Police Department dispatcher takes the information from the complainant and verbally relays the information to Animal Control Officer.
- (c) After handling the complaint, the Animal Control will provide the dispatcher with a disposition of the incident.
 1. The Banning Police Department may not respond to an animal complaint when the Animal Control Officer is on duty. Some exceptions could include:

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- (a) Dog bites;
 - (b) Animal cruelty; and
 - (c) Urgent situations (vicious animals, rabid animals, etc.) where an Animal Control Officer is not immediately available.
- (d) Animal complaints received after Animal Control working hours. During hours when Animal Control is off-duty or is otherwise unavailable, the following animal related calls for service will be handled by the appropriate on-duty officer.
1. On routine complaints, an Animal Control Incident will be prepared and the information will be forwarded to the Animal Control to handle on its next work day. Emergency complaints will be referred to an off-duty ACO via a Banning Police Department Supervisor.
 2. 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 should 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.
 3. Injured Domesticated 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 normal business hours, the animal should be taken to an authorized veterinary care clinic.
 - (b) If after normal business hours, the animal should be taken to the authorized Veterinary Emergency and Critical Care Services Clinic.
 - (c) 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 Firearms and Qualification Policy shall be followed. The decision to dispose of a seriously injured animal will rest with the on-duty [Watch Commander].
 - (d) Injured wildlife should be referred to the SPCA, Marine Mammal Center or Department of Fish and Game Wildlife as applicable. The SPCA will not pick up common pigeons (red legs), starlings, bats or skunks.

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- (e) When handling dead or injured animals department employees shall attempt to identify and notify the owner of the final disposition of the animal.
 - (f) Each incident shall be documented and, at minimum, include the name of the reporting party and veterinary hospital and/or person to whom the animal is released. If the ACO is off duty, the information will be forwarded for follow-up.
4. Reporting Requirements
- (a) A Banning Police Department Crime Report may be required on some animal cruelty cases and on any other criminal offenses involving animals.

369.5 DESTRUCTION OF DANGEROUS ANIMALS

When it becomes necessary to destroy a gravely injured or dangerous animal, it shall be the policy of the Banning Police Department to use the safest and most humane method possible.

369.5.1 BACKGROUND

- (a) Police agencies and Animal Control Units are called upon from time to time to humanely destroy injured or dangerous animals by use of a firearm.
- (b) Many times an injured and/or dangerous animal is encountered in an area where discharge of a firearm would be dangerous to nearby persons and/or property. Thus, shooting of such an animal should occur only as a last resort, pursuant to the provisions of this General Order.

369.5.2 GENERAL CONSIDERATIONS

- (a) In most cases, the officer will utilize small caliber to dispatch the animal.
- (b) No ammunition other than departmental approved will be used in the dispatching of any injured and/or dangerous animals by any on-duty member of the Banning Police Department.

369.6 PROCEDURES

369.6.1 INITIAL NOTIFICATION - SCENE FOLLOW-UP

- (a) The dispatcher, upon being advised by the field officer at the scene that an animal should be destroyed at the scene, shall immediately notify the on-duty supervisor or the on-call supervisor.
- (b) The on-duty supervisor shall immediately respond to the scene and contact the field officer in charge or responsible for the scene.
- (c) The supervisor shall assess the situation and make the determination regarding the appropriate disposition of the animal. The supervisor may consult an Animal Control Officer and/or animal owner for advice and preferences regarding the disposition of the animal.
- (d) The supervisor shall determine if the animal shall be destroyed by the use of a firearm at the scene or transported to the Banning Police Department Range.

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369.6.2 DISPATCHING OF ANIMAL

If the supervisor determines that the animal shall be destroyed by use of a firearm, he/she shall see that the following is carried out:

- (a) Clear the Immediate area of all bystanders
- (b) Determine projectile exit path when necessary
- (c) Position City police units so as to protect against any type of ricochets that may occur,
- (d) Determine the type of weapon and ammunition that shall be used,
- (e) The supervisor, or his/her designee, shall dispatch the animal. If a designee is used, he shall be under the direct supervision of the supervisor and,
- (f) The dispatched animal shall be removed from the scene as soon as possible by the Animal Control Unit, Public Works and/or the officers at the scene. Large animals, such as deer or horses, shall be moved to the shoulder of the road or to another place so as not to create a safety hazard or unsightly scene.
 1. Note: If a supervisor is not on duty, the on-call supervisor may designate an on-duty officer to accomplish the above. The on-call supervisor may respond to the scene if he/she feels the situation requires the presence of a supervisor.
- (g) Arrangement with victim to put animals to sleep should be noted.
- (h) Follow-up Notification - An incident report shall be completed by the initial officer and shall contain a detailed account of the following:
 1. Why it was necessary to dispatch the animal by firearm,
 2. Type of weapon used,
 3. Type of ammunition used,
 4. Officer who dispatched the animal,
 5. Disposition of animal, and
 6. Any other pertinent information that should be a part of the official record.

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 Banning 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 Patrol Division Commander or the authorized designee.

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

- (a) Working with the City ADA coordinator regarding the Banning 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.

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- (d) Ensuring that a list of qualified interpreter services is maintained and available to each Watch Commander and Dispatch Supervisor. 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.

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).

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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 Banning 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

Banning 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.

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.

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- (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.

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.

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- (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 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.

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- (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.

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.

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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 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: The requirements of the ADA and Section 504 of the Rehabilitation Act for telephone emergency service providers. ASL syntax and accepted abbreviations. 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. Hands-on experience in TTY and TDD communications, including identification of TTY or TDD tones. Training should be mandatory for all Dispatch 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. Edit Revert Remove Add Sub-section Add Section

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.

DNA 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 Banning 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.

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.

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- (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).

374.5.2 CELL EXTRACTIONS

If the use of force includes a cell extraction, the extraction shall be video recorded, including audio. Video shall be directed at the cell extraction event. The video recording shall be retained by the Department for the length of time required by statute. Notwithstanding the use of the video as evidence in a criminal proceeding, the tape shall be retained administratively (15 CCR § 1059).

374.6 LEGAL MANDATES AND RELEVANT LAWS

California law provides for the following:

374.6.1 DOCUMENTATION RELATED TO FORCE

Supervisors 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.

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)).

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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.

Publication of Information Regarding Victim of Sex Offenses

375.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the reporting of sex offenses as required by Penal Code § 293. Penal Code § 293 requires:

- (a) "That any employee of a law enforcement agency who personally receives a report from any person, alleging that the person making the report has been the victim of a sex offense shall inform that person that his or her name will become a matter of public record unless he or she requests that it not become a matter of public record, pursuant to § 6254 of the Government Code.
- (b) Any written report of an alleged sex offense shall indicate that the alleged victim has been properly informed pursuant to § (a) and shall memorialize his or her response.
- (c) No law enforcement agency shall disclose to any person, except the prosecutor, parole officers of the Department of Corrections, hearing officers of the parole authority, or other persons or public agencies where authorized or required by law, the address of a person who alleges to be the victim of a sex offense.
- (d) No law enforcement agency shall disclose to any person, except the prosecutor, parole officers of the Department of Corrections, hearing officers of the parole authority, or other persons or public agencies where authorized or required by law, the name of a person who alleges to be a victim of a sex offense, if that person has elected to exercise his or her right pursuant to Penal Code § 293 and § 6254 of the Government Code.
- (e) For the purposes of Penal Code § 293, sex offense means any crime listed in paragraph (2) of Subdivision (f) of § 6254 of the Government Code which is defined in Chapter 1 (commencing with Section 261) or Chapter 5 (commencing with Section 281) of Part 1 of Title 9 of the Penal Code.
- (f) Parole officers of the Department of Corrections and hearing officers of the parole authority shall be entitled to receive information pursuant to subdivisions (c) and (d) only if the person to whom the information pertains alleges that he or she is the victim of a sex offense, the alleged perpetrator of which is a parolee who is alleged to have committed the sex offense while on parole.

375.1.1 NOTICE TO VICTIMS

- (a) Whenever an officer receives a report from any person, alleging that the person making the report has been the victim of a sex offense, the officer shall inform that person that his or her name will become a matter of public record unless he or she requests that it not become a matter of public record, pursuant to § 6254 of the Government Code.
- (b) Officers shall complete the "Riverside County Law Enforcement Agencies Confidentiality Advisement Form. (RCLEAA Form 8/18/05).
- (c) This form must be attached to all criminal reports related to the following California Penal Code §§: 220, 261, 261.5, 262, 264, 264.1, 286, 288, 288a, 288.2, 288.5, 289, 422.6, 422.7, 422.75, and 646.9. A separate form shall be completed for each victim.

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Publication of Information Regarding Victim of Sex Offenses

375.1.2 SUPERVISOR'S RESPONSIBILITY

It shall be the Supervisor's responsibility to ensure that reports requiring a Penal Code Section 293 notification are properly documented.

Range Rules

377.1 PURPOSE AND SCOPE

The purpose of this policy is to help facilitate firearms range safety along with providing protocol for personnel attending or present during firearms training conducted by the Banning Police Department. It is the intent of this policy to provide for a safe environment while conducting firearms training.

377.1.1 PROCEDURE

During any firearms training, Banning Police Department employees shall wear the following protective items while on the firing line:

- Approved eye protection
- Approved hearing protection
- Department issued protective vest

No unauthorized personnel, officer or civilian, will be allowed to be present during firearms training without the expressed permission of the Banning Police Department Administrative Staff. In addition, all persons authorized to be present during firearms training will be required to wear approved safety equipment.

377.2 RANGE STAFF RESPONSIBILITY

The range staff is responsible for firearms safety at the range. Two range staff members should be present during training to facilitate training and maintain safety guidelines. During range operations if any personnel continually violate range rules or safety guidelines, range staff have the authority to remove them from the range. Should range staff find it necessary to have an employee removed from the range, they will immediately contact Police Administration and inform them of the circumstances of the event. In addition, range staff will:

- Ensure all personnel have approved safety equipment
- Firearms and equipment function properly
- Ensure no unauthorized individuals are present during training

377.3 OFFICER RESPONSIBILITY

It will be the responsibility of the individual officer to ensure, when responding to firearms training, they have their department issued protective vest and any additional equipment, as directed.

377.4 GENERAL RANGE SAFETY GUIDELINES

Upon arrival at the range, firearms will be loaded/unloaded, in a safe manner, at the direction of range staff.

All firearms will be considered loaded until physically and visually inspected.

Routine firearms cleaning will not be permitted during firearms training.

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Range Rules

Strict discipline shall be maintained by all personnel while at the range. In addition the following safety guidelines apply:

- Always point the muzzle in a safe direction; never point a firearm at anyone or anything you do not want to shoot.
- Treat every firearm as if it were loaded.
- Keep your finger off the trigger and outside the trigger guard until you are ready to shoot.
- Keep the action open and the gun unloaded until you are ready to use it.
- Before handling any firearm, understand its operation.
- Never rely on any mechanical device for safety.
- Never joke around or engage in horseplay while handling or using firearms.
- If you see unsafe behavior any time when firearms are being handled or used, speak up and take action to correct the unsafe behavior at once.
- At the range, personnel shall obey the commands of the range staff, or any individual calling "cease fire," at once.
- Circumstances may require additional safety rules unique to a particular situation and/or training exercise.

377.5 RANGE RELATED INJURIES

Personnel sustaining any injury (s) at the range shall immediately notify the range staff. Range staff shall immediately notify police administration of the injury and ensure the required forms are completed to document the employee's injury and how it occurred.

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 Banning 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.

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.

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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.

380.3.3 REPORTING

- (a) For all arrests where children are present or living in the household, the reporting employee will document the following information:
 1. Name
 2. Sex
 3. Age
 4. How, where and with whom or which agency the child was placed

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- (b) For all arrests where dependent adults are present or living in the household, the reporting employee will document the following information:
1. Name
 2. Sex
 3. Age
 4. Whether he/she reasonably appears able to care for him/herself
 5. Disposition or placement information if he/she is unable to care for him/herself

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

Service Animal Policy

382.1 PURPOSE AND SCOPE

Service animals play an important role in helping to overcome the limitations often faced by people with disabilities. The Banning 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 individuals with service animals with the same courtesy and respect that the Banning Police Department affords to all members of the public.

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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.

CITIZEN VOLUNTEER PROGRAM

385.1 PURPOSE AND SCOPE

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

385.1.1 DEFINITION OF VOLUNTEER

An individual who performs a service for the Department without promise, expectation, or receipt of compensation for services rendered.

The Citizen Volunteer Program shall be composed of volunteer citizens over the age of 18 years who are willing to become familiar with the area serviced by the Banning Police Department; having no unfavorable criminal records, and an acceptable driving history. Admission to the Citizen Volunteer Program is with the sole discretion of the Chief of Police or his/her designee.

385.1.2 POLICY AND LAW COMPLIANCE

All orders and procedures of the Banning Police Department are applicable to Citizen Volunteer members unless by their nature they do not apply. Each person who takes the oath of the Citizen Volunteer thereby agrees to be bound by, and to adhere to, these orders and procedures.

Citizen Volunteers shall become familiar with the provisions of these Rules and regulations, as well as policies and procedures, and shall conform to and abide by them. They shall observe Federal, State and Local laws and ordinances and shall render their services to the City of Banning with courage, discretion, and fidelity.

All Citizen Volunteers shall abide by all Federal, State, County and City laws. Volunteer members who violate any law(s) may be subject to termination from the Citizen Volunteer Program. Citizen Volunteers must maintain professional and courteous relations with the public while performing his/her duties.

385.2 SELECTION AND APPOINTMENT OF CITIZEN VOLUNTEER

The Banning Police Department shall endeavor to recruit and appoint to the Citizen Volunteer Program only those applicants who meet the high ethical, morale, and professional standards set forth by this department.

385.2.1 PROCEDURE

All prospective Volunteers shall complete the volunteer application form designed to obtain a minimum of necessary basic history concerning the person seeking a position. All person(s) involved in the applicant process will be particularly careful to respect the confidentiality of the information provided by the applicant. No information so provided will be made

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available to other patrol members or other persons not entitled by law to have access to such information. Each Volunteer applicant shall complete a Personal History Waiver form. This document is used, when appropriate, to assist the department in making a determination as to the overall fitness of the applicant. The Department Volunteer Coordinator or designee(s) shall conduct a face-to-face interview with an applicant under consideration to determine if they are a viable candidate for the volunteer program. Viable candidates shall have a documented background investigation completed, which shall include, but not be limited to, the following:

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

A polygraph exam may be required of each applicant depending on the type of assignment.

385.2.2 APPOINTMENT

Service as a Citizen Volunteer with the Department shall begin with an official notice of acceptance or appointment to a volunteer position. Notice may only be given by an authorized representative of the Department, normally the Department Volunteer Coordinator, with approval by the Chief of Police or his/her designee.

No volunteer should begin any assignment until they have been officially accepted for that position and completed all required screening and paperwork. At the time of final acceptance, each volunteer shall complete all required enrollment paperwork and have their photograph taken for identification purposes. All volunteers shall receive a copy of the department's policy and procedure manual and shall be required to sign a volunteer agreement.

385.2.3 PROBATION

New members of the Citizen Volunteer Program will be on probationary status for six months during which time their service with the program will be reviewed. At the conclusion of the probationary period, the Volunteer will be considered a regular member of the Program, however at no time do employment rights vest with member of the Program.

385.2.4 RECRUITMENT

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

385.3 GOOD STANDING REQUIREMENTS

A Citizen Volunteer Program member is considered in good standing when the requirements outlined below are on an on-going basis:

- (a) Attend all monthly meetings, special meetings, scheduled events and assignments and be punctual in their attendance.
- (b) Complete monthly assigned training.
- (c) Volunteer a minimum of sixteen (16) hours of service per month.

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- (d) Maintain a valid California Driver's License.
- (e) Adherence to the Banning Police Department policy manual.

Nothing shall preclude the Chief of Police or Volunteer Liaison from establishing additional requirements and needs for Citizen Volunteer Program members to remain in good standing. Any Citizen Volunteer Program member found not to be in good standing may be dropped from the Program at any time.

385.4 PROGRAM MANAGEMENT

385.4.1 DEPARTMENT VOLUNTEER COORDINATOR

The Department Volunteer Coordinator shall be a Department staff member appointed by the Administration Division Commander, with approval by the Chief of Police. The function of the Department Volunteer Coordinator is to provide a central coordinating point for effective volunteer management within the Department, and to direct and assist staff and volunteer efforts to jointly provide more productive services. The Department Volunteer Coordinator should work with other Department staff on an ongoing basis to assist in the development and implementation of volunteer-staffed positions. The Department Volunteer Coordinator, or his/her designee(s), shall be responsible for the following:

- (a) Recruiting, selecting and training qualified volunteers for various positions.
- (b) Facilitating the implementation of new volunteer activities and assignments.
- (c) Maintaining records for each volunteer.
- (d) Tracking and evaluating the contribution of volunteers.
- (e) Maintaining a record of volunteer schedules and work hours.
- (f) Completion and dissemination as appropriate of all necessary paperwork and information.
- (g) Planning periodic recognition events.
- (h) Maintaining liaison with other volunteer-utilizing programs in the community and assisting in community-wide efforts to recognize and promote volunteering.
- (i) Working with the Citizen Volunteer Coordinator to accomplish the previously listed responsibilities.

385.4.2 CITIZEN VOLUNTEER COORDINATOR

The Citizen Volunteer Coordinator shall be a citizen volunteer appointed by the Administration Division Commander, with the Chief's approval. The function of the Citizen Volunteer Coordinator is honorary in nature and is to assist in the management of the volunteer program as determined by the Chief of Police, Administration Division Commander, and Department Volunteer Coordinator.

385.4.3 VOLUNTEER DESIGNATION

No rank will be established in the Citizen Volunteer Program. Team Leaders will be designated for communication purposes.

Levels & Requirements € Each Member will hold a designation referred to as a level that will indicate their skills, experience and abilities to perform various duties. There are Levels I, II & III.

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A Member must complete a training period under the instruction of an authorized Volunteer Training Officer (VTO) with the program prior to patrolling with another Member. The number of hours required for each new Member may vary but will be a minimum of 24 hours. During this training period, Members will be considered "Level III" and are not allowed to patrol except with a VTO.

Upon successful completion of the Level III training and upon recommendation of the Department and Citizen coordinators, a member may be elevated to "Level II" status and will be qualified to patrol with any other Level I or Level II Member.

A Member may be classified as "Level I" upon approval of the Department and Citizen Volunteer Coordinators. Level I status is generally reserved for VTO's or those Members chosen by the Volunteer Coordinators to be Level I because of their superior skills and exemplary contributions to the Citizen Volunteer Program

385.4.4 CHAIN-OF-COMMAND

Members shall respect and follow the Chain of Command as it applies within the organization and the Police Department in general.

385.5 VOLUNTEER DUTIES AND ASSIGNMENTS

Citizen Volunteers should be placed only in assignments or programs that are consistent with their knowledge, skills, abilities and the needs of the Department. Specific assignments may be established by the Department Volunteer Coordinator or his/her designee which may include but are not limited to Quartermaster, Secretary, Historian, Field Training Officer, Office Maintenance (Forms/First Aid) and Vehicle/Radio Maintenance. Specific duties and assignments may vary and are situational to support the Police Department and the General Public. All orders, duties and assignments must be legal, ethical and within all polices of the City of Banning. Every effort will be made to utilize special experience, training or talent which a member possesses so as to enhance the effectiveness of the Program.

Every Citizen Volunteer shall execute and complete any and all duties to which they have been assigned to the best of their ability. Citizen Volunteers are only allowed in the police station while conducting official volunteer business.

385.5.1 PATROL

Patrol of a specific area will be assigned by the Volunteer Coordinators or the Watch Commander.

385.5.2 DUAL PATROL (TWO VOLUNTEER CAR)

Two Citizen Volunteer members are required for any patrol assignments. Specific details or assignments may be completed by one member with the specific permission of the Department Volunteer Coordinator. The Department Volunteer Coordinator may deny permission for patrol duty to any member at his discretion.

385.5.3 CANCELLATION

If unable to report for a scheduled shift, Citizen Volunteers will make every effort to advise the Department Volunteer Coordinator, Citizen Volunteer Coordinator or their designee(s). The member should also make every attempt to contact his patrol partner so that other arrangements can be made to avoid the loss of the patrol shift. Generally speaking, it shall be the responsibility of the scheduled member to seek a replacement for the shift.

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385.5.4 CRIME REPORTS

Volunteers shall immediately report suspicious and unusual circumstances, particularly those appearing to be criminal in nature and life threatening. If immediate radio contact is impossible, all pertinent information will be recorded and passed by telephone as soon as possible. UNDER NO CIRCUMSTANCES WILL CITIZEN VOLUNTEER MEMBERS BECOME INVOLVED IN ANY ENFORCEMENT ACTION. However, members have an obligation to defend themselves and other members of the Department.

385.6 TRAINING

Volunteers will be provided with an orientation program to acquaint them with the Department, personnel, policies and procedures that have a direct impact on their work assignment. Volunteers should receive position-specific training to ensure they have adequate knowledge and skills to complete tasks required by the position and should receive periodic ongoing training as deemed appropriate by their supervisor or the Department Volunteer Coordinator. All Citizen Volunteer Program members will complete the required basic volunteer academy course of instruction, as determined by the Chief of Police or the Administration Division Commander, prior to performing any duties described within this manual unless they are under direct supervision of a regular department employee or a Volunteer Training Officer. All Volunteer Members must complete a training period under the instruction of an authorized Volunteer Training Officer (VTO) prior to patrolling with another volunteer in a marked volunteer vehicle. The prescribed training periods must be completed before any special assignments within the Department will be considered. The number of FTV hours required for each new Volunteer Member will be determined by the Department Volunteer Coordinator, usually a minimum of 24 hours.

Training should reinforce to volunteers that they may not intentionally represent themselves as, or by omission infer that they are sworn officers or other full-time members of the Department. They shall always represent themselves as volunteers. Certain periodic training will be required for safety purposes. Periodic training may be conducted at the mandatory monthly Citizen Volunteer Program meetings and/or at special training meetings as designated by the Administration Division Commander or Department Volunteer Coordinator.

385.7 FITNESS FOR DUTY

No volunteer shall report to work or be on-duty when his/her judgment or physical condition has been impaired by alcohol, medication, other substances, illness or injury. Volunteers shall report to their supervisor any changes in status that may affect their ability to fulfill their duties. This includes, but is not limited to, the following:

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

Prescribed medications that cause drowsiness, or in any way hamper the Volunteer members safe performance of duty will not be used prior to, or while in, a duty status. Citizen Volunteers who must use prescribed medication on a twenty-four (24) hour basis, which may affect their ability to perform as a Citizen Volunteer, shall notify the Department Volunteer Coordinator and shall be placed on in-active status until their medical condition improves. No member of the Volunteer patrol will consume alcoholic beverages for a period of not less than eight hours prior to reporting for duty. At no time shall a Citizen

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Volunteer drink an alcoholic beverage when on duty or in uniform. Citizen Volunteers shall not respond to emergency call-outs if they have consumed an alcoholic beverage with the prior eight hour period to the call-out.

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

385.8 UNIFORMS AND DRESS CODE

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

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

Each Citizen Volunteer Program member will be issued a basic standard uniform just prior to graduating from the Citizen Volunteer Program Academy. Optional uniforms may be purchased at the Citizen Volunteer Program member's own expense, provided it complies with guidelines outlined below and conforms to the Banning Police Department's policy manual. Any Banning Police Department shoulder patches attached to any clothing that was privately purchased by a Citizen Volunteer member, remains the property of the Banning Police Department and will be returned upon the member's separation from the program.

Uniforms shall be tailored to fit the wearer in a comfortable, neat appearing and proper manner.

Each member shall ensure that a family member(s) is/are made aware that all issued uniforms as discussed in this section remains the property of the Banning Police Department and must be returned to the Department in the event the Citizen Volunteer Program member is unable to do so through serious illness, injury or death.

385.8.1 CLASS B UNIFORM

The basic standard issue or Class B uniform will consist of the following:

- (a) Black long leg trousers
- (b) Silver Tan 5.11 polo shirt with cloth embroidered badge. (Can be worn all year or as directed by the Volunteer Coordinator)
- (c) Plain white, crew neck style t-shirt.
- (d) Black ball cap emblazoned "Banning Police".
- (e) Black shoes and socks.

385.8.2 OPTIONAL EQUIPMENT

Uniforms and equipment may include:

- (a) Ballistic Vest
- (b) Key holder, flashlight holder and H.T. holder.

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- (c) San Brown belt.
- (d) Jacket (Wind breaker or department approved jacket).

385.8.3 SHOULDER PATCHES

The Citizen Volunteer Program and Banning Police patches shall be worn on both shoulders of the jacket.

The Citizen Volunteer Program shoulder patch (also known as a "Rocker") shall be sewn onto the sleeve, one quarter inch (1/4) below and centered on the shoulder seam. The Banning Police Department shoulder patch shall be sewn directly below, and touching the Citizen Volunteer Program patch.

385.8.4 LEATHER GEAR

All visible parts of leather gear shall be finished black. Leather articles shall be stamped with a basket weave design. The color of all visible parts of metal fasteners will be silver.

385.8.5 WEARING THE UNIFORM

Citizen Volunteers shall wear the uniform:

- (a) To regular meetings, unless otherwise directed by the Volunteer Coordinators
- (b) When assigned to regular Volunteer Patrol duties.
- (c) When participating in Patrol Ride Along activity.
- (d) When performing assigned duties which necessitate the uniform as a means of identification.

385.8.6 USE OF BADGE OR UNIFORM

Unauthorized wearing or display of the Citizen Volunteer Program Patrol badge, identification card, uniform, or any portion thereof, will subject the member to disciplinary action, including termination.

385.8.7 IDENTIFICATION CARD

Identification cards shall be issued to each Citizen Volunteer for the purpose of identifying the holder as a member of the Citizen Volunteer Program while on duty. When working in the police department, the Volunteer shall be in uniform. When visiting the police department, the Volunteer shall wear either their identification card or a visitors badge on their outer clothing. The card shall not be used for any other purpose. The card shall remain the property of the Banning Police Department and must be surrendered upon termination of membership.

385.8.8 HAIR GROOMING AND HYGIENE

Members shall practice proper personal hygiene at all times.

Hair shall be combed, clean, and trimmed in a neat manner. Mustaches are permitted as long as they are neatly trimmed.

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385.9 RULES OF CONDUCT

385.9.1 REPORT OF ARRESTS

Any Citizen Volunteer who is arrested for any crime shall submit to the Department Volunteer Coordinator, in writing, ALL information relating to the details of the incident. This shall be done no later than one (1) day after the incident or as soon as possible. Any Citizen Volunteer who is arrested for any offense by any law enforcement agency shall be considered to be on immediate suspension from the Citizen Volunteer Program until further notice. Citizen Volunteers shall not operate department vehicles during their suspension. Any arrest for a vehicular related crime shall result in the loss of driving privileges until such time the Citizen Volunteer is reinstated to the Program and specific permission is granted to allow the Citizen Volunteer to operate department vehicles.

Any Citizen Volunteer, whose driving privileges are restricted, suspended or re-evaluated by the Department of Motor Vehicles, will notify the Volunteer Coordinator in writing, within one (1) day or as soon as possible. Any restrictions, suspensions or re-evaluations shall result in the loss of driving privileges until such time the Citizen Volunteer is reinstated to the Program.

385.9.2 DISOBEDIENCE OF AN ORDER OR DIRECTIVE

Citizen Volunteers shall obey legal and ethical orders and directives, whether verbal or written.

385.9.3 RESPECT FOR DEPARTMENT STAFF AND VOLUNTEER MEMBERS

All members shall engage in proper conduct and shall show proper attitude toward Department Staff and other members of the Citizen Volunteer Program. Volunteers shall always maintain a courteous demeanor toward all members of other law enforcement agencies.

Citizen Volunteers shall treat the public with a professional, helpful attitude at all times. They shall maintain a courteous demeanor when dealing with all members of the community.

385.9.4 FALSE REPORTS

No Citizen Volunteer member shall make any accusations, allegations, or statement, knowing it to be untrue.

385.10 SAFETY RULES

385.10.1 WEAPONS

No form of weapon will be carried by Citizen Volunteer Members.

385.10.2 HAZARDOUS SITUATIONS

NEVER enter a hazardous situation. If a situation demands action, contact dispatch, via the radio, and request an officer's assistance.

385.10.3 OPEN BUILDINGS

NEVER enter an open residence or building during a vacation house or business check. Immediately back away and call for assistance.

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385.10.4 ENFORCEMENT

DO NOT, under any circumstances, take any physical enforcement actions.

385.10.5 SELF-DEFENSE

In all cases, Citizen Volunteers have a right to use self-defense to protect themselves or other members of the department. In the event a Citizen Volunteer must use self-defense he/she shall notify the on-duty Watch Commander, as soon as possible, for appropriate documentation purposes. The Citizen Volunteer shall also prepare a written report, as soon as possible, regarding the use of self-defense and forward it to the Department Volunteer Coordinator. The Department Volunteer Coordinator will notify the Administration Division Commander upon receiving such notice of a use of Self Defense.

385.10.6 PURSUIT

Citizen Volunteer members shall not pursue suspects.

385.10.7 PHYSICAL CONFRONTATION

Citizen Volunteer members shall not become involved in a physical confrontation with a criminal suspect, unless such action is necessary to assist an officer and is at the officer's request.

385.10.8 CRIMES IN PROGRESS

Citizen Volunteers shall not attempt to prevent crimes in progress. Citizen Volunteers shall notify dispatch immediately of possible crimes. The Citizen Volunteer shall maintain a safe distance and maintain a visual observation until an officer arrives.

385.10.9 IN-PROGRESS CALLS FOR SERVICE

Volunteers shall avoid the area of in-progress calls including, but not limited:

- (a) Domestic Violence
- (b) Disturbance calls (415 PC)
- (c) Assaults
- (d) Calls involving weapons
- (e) Pursuits

385.11 USE OF DEPARTMENT EQUIPMENT

Citizen Volunteers may use department equipment with the permission of a department supervisor. Equipment shall be used in the manner in which it was intended and shall not be misused. Under no circumstances shall department equipment be taken home.

All uniforms and equipment issued by the Citizen Volunteer Program or the Banning Police Department shall remain the property of the Banning Police Department and must be returned upon termination of membership.

Members shall not maliciously damage any equipment or property. (Note: Damage or loss of Department equipment may subject the member responsible to make proper restitution to the City of Banning).

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385.12 VOLUNTEER PATROL VEHICLES

Volunteers assigned to duties or other assignments that require the use of a vehicle must first complete the following:

- (a) Verification that the volunteer possesses a valid California Driver License.
- (b) Verification that the volunteer carries current vehicle insurance.

The Volunteer Coordinator should insure that all volunteers receive safety briefing updates and license and insurance verification at least once a year. When operating a Department vehicle, volunteers shall obey all rules of the road, including seat belt requirements. Smoking is prohibited in all Department vehicles. Volunteers should not operate a marked black and white patrol car, absent the approval of the Department Volunteer Coordinator and/or Watch Commander, unless there is a prominently placed sign indicating that it is out of service and are not authorized to operate a Department vehicle Code-3.

385.12.1 SECURITY

Patrol vehicles will be locked at all times when not in use.

385.12.2 PURPOSE

Volunteer patrol vehicles will not be used for any purpose other than normally assigned duties. The Department Volunteer Coordinator and/or Watch Commander may designate the use of a patrol vehicle for a special duty assignment.

385.12.3 PASSENGERS

No Citizen Volunteer member shall permit unauthorized person(s) to ride in or operate any department vehicles. Any transportation, convoy or escort (10-14) shall be approved by the Watch Commander prior to transporting the person to another destination. If approved, dispatch is to be notified, informing dispatch if any of the occupants are female and the beginning and ending mileage for the trip.

385.12.4 END OF SHIFT

Citizen Volunteer members will re-fuel, properly park and lock patrol vehicles at the end of their shift in the designated area for that vehicle(s). The patrol vehicle(s) will be left with a minimum of three quarters ($\frac{3}{4}$) of a tank of fuel.

385.12.5 ACCIDENTS

All traffic accidents involving a patrol vehicle must be reported to dispatch immediately by radio. If radio contact is not possible, telephone contact will be made without delay. A patrol vehicle will not be moved from the scene of the accident until authorized by the responding officer.

Within 24 hours of any accident involving a City vehicle, a report must be made to the Human Resources/Risk Management Department including details regarding injuries to volunteers, employees or citizens and any damages to vehicles.

385.12.6 REPAIRS

Needed repairs will be reported by completing a "Vehicle Repair Request" form. The form shall be completed with copies to the Department Volunteer Coordinator and the Citizen Volunteer Coordinator. The Citizen Volunteer completing the form will arrange for the

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vehicle to be dropped off at City Yard's. The copy of the repair request will be left on the dashboard of the vehicle.

All Department vehicles require scheduled servicing. If the Volunteer Patrol vehicle is due for service, it is to be left at City Yards as soon as the service date arrives. It is not to be driven on patrol until the service is completed by City Yards.

385.12.7 PERSONAL VEHICLES

Personal vehicles shall not be used by Citizen Volunteers while performing their assigned volunteer duties.

385.12.8 OPERATION

Members of the Citizen Volunteer Program will operate patrol units in a safe and legal manner. All traffic regulations, including parking regulations, shall be strictly observed.

385.12.9 LIGHT BAR OPERATION

Citizen Volunteers will not operate the overhead light bar of the patrol unit while responding to or from a call or traffic collision scene. The light bar will only be activated while the patrol unit is stationary and only when a caution warning is necessary for public safety.

385.12.10 CITY LIMITS

At no time shall the patrol unit be driven outside the city limits without the expressed permission of the Watch Commander or Volunteer Coordinators. The only exception is the west side of Highland Springs Avenue, which is located in the City of Beaumont, or the Riverside County area on the Bench.

385.13 REPORTS AND RECORDS

385.13.1 MEMBERSHIP ROSTER

The Department and Citizen Volunteer Coordinators shall keep and maintain a complete and current roster of the members. The roster shall include the name, address, all telephone numbers, and status of each volunteer. Each Citizen Volunteer will be assigned a "Victor Number" which will serve as their radio identification number. All revisions to the roster shall include the date that such revision was made.

385.13.2 NOTIFICATION OF CHANGE OF STATUS

Each Citizen Volunteer member shall be responsible for promptly reporting any error or change in their status to the Volunteer Coordinators in writing. This is to include changes in addresses and phone numbers.

385.13.3 DISTRIBUTION OF ROSTERS

Copies of the Volunteer Member Roster will be furnished to the Chief of Police, Lieutenants, Sergeants, Volunteer Coordinators, and Dispatch.

385.13.4 PATROL LOG

Citizen Volunteers conducting patrol shall maintain a patrol log as authorized by the Department Volunteer Coordinator. Patrol logs will be submitted to the Volunteer Patrol Coordinator or other designated member at the end of the members patrol shift. Logs will indicate the activities accomplished during the patrol shift. Unusual or extraordinary

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activities should be reported on a separate sheet of paper, if there is not an enough room on the patrol log and shall be attached to the patrol log.

385.13.5 NOTEBOOKS

Each Citizen Volunteer shall maintain a Patrol Notebook. The Volunteer Patrol Coordinator or other designated member shall provide a General Notebook for each patrol vehicle, which shall contain all reference and reporting material needed for the member to perform their duties. A personal notebook should be maintained by each Citizen Volunteer member containing reference material and any specific patrol information needed for the performance of their duties.

385.13.6 VOLUNTEER TIME SHEET

The Time Sheet is provided for members to record their service time in order to account for a total number of hours that members are utilized for any given activity or period of time. The Time Sheet is mandatory. All hours committed to working at the Police Department need to be accounted for.

The Time Sheet shall include the following information: Date worked, Function performed, Location, Time arrived and Time departed. Hours will be totaled and rounded out without minutes.

Each Citizen Volunteer will complete their own individual time sheet. All time sheets will be turned into the Citizen Volunteer Coordinator prior to the 25th of each month. The Citizen Volunteer Coordinator or designee will total the hours worked and report the final total to the Department Volunteer Coordinator, via e-mail prior to the end of each month.

385.14 OFF-DUTY INCIDENTS

Any off-duty incident involving a Citizen Volunteer member, where they identify themselves to any person as affiliated to the Banning Police Department and/or the Citizen Volunteer Program, will require the member to notify the on-duty Watch Commander and the Department Volunteer Coordinator as soon as possible.

Any situation or incident that involves a Citizen Volunteer member that could reflect negatively on the Banning Police Department or the Citizen Volunteer Program shall be brought to the attention of the Department Volunteer Coordinator who will notify the Administration Division Commander, as soon as possible.

385.15 COURT APPEARANCE/TESTIMONY

385.15.1 SUBPOENA SERVICE

Citizen Volunteer member may be subpoenaed for a court appearance. Should this occur every effort will be made to place the member on stand-by or on-call.

385.15.2 COURT APPEARANCE

When on stand-by, Citizen Volunteer members are expected to be prepared to be present in court at the time which appears on the subpoena. They are also expected to arrive in a timely manner when notified by telephone during on-call status.

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385.15.3 AVAILABILITY

All Citizen Volunteer members placed on stand-by or on-call will remain as such for the day of the subpoena unless relieved by the District Attorney's office.

385.15.4 RELIEF

No member is relieved from his/her stand-by or on-call status except as outlined as above.

385.15.5 NOTIFICATION

Any Citizen Volunteer member required in court shall be notified via telephone or subpoena to appear. If a Citizen Volunteer member must leave their residence or place of business, they shall contact the District Attorney's office and provide a phone number to which they can be contacted.

385.15.6 REPORTING

Upon arrival at the Court, all Citizen Volunteer members are responsible for reporting to the appropriate Court Room or the District Attorney's office. If the District Attorney is unavailable in the courtroom, they are to contact the court deputy and advise them of their location.

385.15.7 UNIFORM

Citizen Volunteers shall make all court appearances in either their volunteer uniform or civilian business attire.

385.16 REQUESTS FOR CITIZEN VOLUNTEER PERSONNEL

385.16.1 REQUEST FOR SERVICE

Requests for Citizen Volunteer personnel assistance are received from two main sources, internal and external:

- (a) Internal request for assistance may originate from any command within the Banning Police Department. Requests are to be made in memo form and submitted to the Volunteer Coordinators.
- (b) External requests are generally routed through the Chief of Police, once granted, will route the request to the Volunteer Coordinators, with a copy to the Administration Division Commander.

385.16.2 ASSIGNMENT

Internal requests for Citizens Volunteer assistance will be reviewed by the Volunteer coordinators. The Volunteer coordinators will designate a Special Events Coordinator and assign that designee to solicit Citizen Volunteer members to sign-up for the detail.

External requests are at the discretion of the Chief of Police. If the request is approved, the Volunteer Coordinators will follow the internal request process.

385.16.3 EMERGENCY ASSIGNMENTS

Citizen Volunteer Members may be called to duty or placed on stand-by alert, via the Watch Commander, when an urgent or emergency situation requires or may require additional manpower on short notice. The Department Volunteer Coordinator will designate two Citizen Volunteer members as emergency contacts for Dispatch to call in the event of an incident.

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Both emergency contacts will have the ability to call out other Citizen Volunteers to stand-by or respond to the request of the Watch Commander. Both emergency contacts should remain in contact with each other as much as possible and rotate the responsibility should one become unavailable.

The emergency contacts will be responsible for taking the information from Dispatch as to what type of incident is occurring, location of the incident, where to contact the Watch Commander and how many volunteers are needed.

385.17 CONFIDENTIALITY

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

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

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

385.18 RADIO AND MDT USAGE

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

385.19 DISCIPLINARY PROCEDURES/TERMINATION

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

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

385.19.1 REPRIMANDS

The Department Volunteer Coordinator, having become aware of any minor infraction of any City or Police Department policy may orally reprimand the Volunteer Member, with no further action necessary. Said oral reprimand will be documented in the Volunteer Members personnel file. If a number of oral reprimands have been issued, written warnings will be issued.

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385.19.2 REPORTING

Any person having become aware of an incident or activity of a Volunteer Member may prepare a written report on the matter and forward it to the Department Volunteer Coordinator for review.

- (a) The Department Volunteer Coordinator shall review the report and submit a copy to the Administration Division Commander.
- (b) The Administration Division Commander will review the information and determine what if any, steps will be taken involving the incident/activity. All serious incidents/activities will be forwarded to the Chief of Police for further review before any further steps are taken.

385.19.3 SUSPENSION

When an incident on the part of a Volunteer member is of a nature warranting such action, the Volunteer Member may be immediately suspended from the Volunteer Program by the Department Volunteer Coordinator and/or any regular sworn officer of the Banning Police Department.

Any member of the Volunteer Program who is arrested for any offense by any law enforcement agency shall consider themselves under immediate suspension from the Volunteer Program until a full investigation can be conducted. The member shall remain on suspension until notified otherwise.

The Department Volunteer Coordinator will be immediately advised of this action and the circumstances of the event involving the member, if the member is suspended by a regular sworn officer. The regular sworn officer, who has knowledge of the event, shall be required to write a written memorandum to the Chief of Police, via the Administration Division Commander, detailing the incident. In the event the same sworn officer is involved in the same incident, the on-duty Watch Commander shall document the event to the Chief of Police.

385.19.4 DISMISSAL

When the incident on the part of the Volunteer member is deemed to be grounds for dismissal, the member may be removed from the Program and will be required to turn-in all issued equipment. This includes any equipment that the Member may have in their possession at the time of their dismissal, which was not issued to them, but allowed to have in their possession at that point and time.

- (a) The decision on whether a Volunteer Member should be terminated shall rest with the Chief of Police or his/her designee.
- (b) Volunteer Members are considered "at will" personnel and enjoy no administrative or appeal process.

385.20 EXIT INTERVIEWS

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

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385.21 EVALUATIONS

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

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 Banning 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.

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 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 officers who has consumed any amount of an alcoholic beverage or taken any drugs that would tend to adversely affect the officers'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.
- (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.

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Off-Duty Law Enforcement Actions

- (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 Banning 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 NON-SWORN RESPONSIBILITIES

Non-sworn 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.

Illness and Injury Protection Program

388.1 PURPOSE AND SCOPE

The health and safety of the employees of the Banning 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 Banning 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 Administration Supervisor, 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 Administration Supervisor is responsible for ensuring that all safety and health policies and procedures are clearly communicated and understood by all employees. The Administration 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).

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.

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Illness and Injury Protection Program

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 Administration Supervisor 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).

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 <http://www.dir.ca.gov/DOSH/etools/09-031/tools.htm>.

388.5.1 ADMINISTRATION SUPERVISOR INSPECTION DUTIES

The Administration Supervisor shall ensure an Identified Hazard and Correction Record (<http://www.dir.ca.gov/DOSH/etools/09-031/IndHazCorRec.pdf>) 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.

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388.5.3 SUPERVISOR ASSESSMENT DUTIES

Supervisors should inform the Administration Supervisor 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 Administration Supervisor 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.
- 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 Administration Supervisor via the chain of command.

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388.8 TRAINING AND INSTRUCTION

The Administration Supervisor shall work with the Training Sergeant 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.
- 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 Administration Supervisor 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 Administration Supervisor should work with the Training Sergeant 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

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- 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
- 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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Chapter 4 - Patrol Operations

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 in the City of Banning, 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 Patrol and other Divisions 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 Banning 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 Detective Bureau 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 Banning Police Department.

400.2.1 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.

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Patrol Function

400.2.2 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.

400.2.3 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.

400.2.4 BULLETIN BOARDS

A bulletin board will be kept in the [briefing] room and the Detective Bureau for display of suspect information, intelligence reports and photographs. New General Orders will be made available for patrol supervisors and will be discussed at [briefing]s and shift meetings. A copy of the General Order 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.

Racial- or Bias-Based Profiling

402.1 PURPOSE AND SCOPE

This policy provides guidance to department members and establishes appropriate controls to ensure that employees of the Banning Police Department do not engage in racial- or bias-based profiling or violate any related laws while serving the community.

402.1.1 DEFINITION

Definitions related to this policy include:

Racial- or bias-based profiling - An inappropriate reliance on factors such as race, ethnicity, national origin, religion, sex, sexual orientation, economic status, age, cultural group, disability or affiliation with any other similar identifiable group as a factor in deciding whether to take law enforcement action or to provide service.

402.2 POLICY

The Banning 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.

Race, ethnicity or nationality, religion, sex, sexual orientation, economic status, age, cultural group, disability or affiliation with any other similar identifiable group shall not be used as the basis for providing differing levels of law enforcement service or the enforcement of the law.

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.

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Racial- or Bias-Based Profiling

402.4.2 REPORTING TRAFFIC STOPS

Each time an officer makes a traffic stop, the officer shall report any information required in the Traffic Function and Responsibility Policy.

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.

- (a) Supervisors should discuss any issues with the involved officer and his/her supervisor in a timely manner.
- (b) Recordings that capture a potential instance of racial- or bias-based profiling should be appropriately retained for administrative investigation purposes.
- (a) Supervisors shall report any actual or alleged violations of this policy to their supervisors.
- (b) 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 Training Section.

- (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)).

Traffic Stop Procedure

403.1 PURPOSE AND SCOPE

To establish policy and procedure guidelines for the advisement and clearing of all traffic stops made by officers of the Banning Police Department.

403.2 POLICY

It is department policy that all traffic stops made by sworn members of the department be documented as to date, time and location, and disposition of the stop.

403.3 DEFINITION

A traffic stop is an action taken by a Sworn member of this department, while on duty in an authorized emergency vehicle that results in the lawful detention of a motorist.

403.4 PROCEDURES

- When an officer makes a traffic stop, the officer will advise the Public Safety Dispatcher (PSD) that the stop is being made. The officer will do this by either voice, via a police radio, or by typing the information into the unit's mobile data terminal (when installed). Information to be provided by the officer should include the location of the stop and the license plate of the vehicle. A record of the traffic stop will be made into the Computer Aided Dispatch System (CAD).
- When the officer completes the traffic stop, the officer will advise the PSD that the traffic stop is clear by transmitting the reason and disposition for the stop. The officer will do this by either voice, via the police radio, or by typing the same information into the unit's mobile data terminal (when installed).

Pre-Shift Briefing

404.1 PURPOSE AND SCOPE

Briefing 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 General Orders or changes in General Orders
- (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.

404.3 DURATION

The pre-shift briefing should be completed in an expeditious manner in order to clear officers to begin their patrol duties. Any training conducted that prolongs briefing should be documented, including the topic covered and the duration.

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.

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Crime And Disaster Scene Integrity

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.

Emergency Tactical Unit (ETU)

409.1 PURPOSE AND SCOPE

The formation of the Emergency Tactical Unit (ETU) evolved from the premise that a team of highly motivated and well-conditioned individuals, specifically equipped and trained to function as a tactical unit, can be more effective and safely deployed to confront highly dangerous criminal activity.

Recognizing the presence of a highly trained and skilled police tactical unit has been shown to substantially reduce the risk of injury or loss of life to citizens, police officers, and suspects; and recognizing a well managed "team" response to critical incidents usually results in the successful resolution of critical incidents. It is the intent of the Banning Police Department Emergency Tactical Unit to provide a highly trained and skilled tactical team as a resource for the Banning Police Department in the handling of spontaneous and planned critical incidents.

ETU's primary mission is to professionally represent the Banning Police Department and support its goals. ETU Officers are expected to conduct themselves in a professional manner at all times.

ETU Officers understand they are role models and it is important to maintain a positive demeanor and have a cooperative spirit with all members of the department.

ETU Officers understand their assignment to ETU is voluntary and requires a serious commitment to the entire team. This includes training, physical fitness, and weapons proficiency. Officers are expected to attend training and be available for activation.

ETU Officers serve at the will of the Chief of Police and may be removed from the team at the Chief's discretion.

409.1.1 OPERATIONAL AND ADMINISTRATIVE POLICY

The Policy Manual sections pertaining to the Emergency Tactical Unit are divided into Administrative and Operational Policy and Procedures. Since situations that necessitate the need for such a police response vary greatly from incident to incident and such events often demand on-the-scene evaluation, the Operational Policy outlined in this manual section serves as a guideline to department personnel allowing for appropriate on-the-scene decision-making as required. The Administrative Procedures, however, are more restrictive and few exceptions should be taken.

409.2 MANAGEMENT / SUPERVISION OF ETU

The ETU Commander shall be selected by the Chief of Police and within one year's time of assignment shall attend a SWAT /Tactical Commander's Course. The ETU Commander has the following responsibilities:

Directs the implementation of the policies set forth by the Chief of Police.

Ensures the team's objectives and the overall operations are handled within the guidelines established by the department and ETU.

Acts as liaison between administration and ETU.

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Emergency Tactical Unit (ETU)

Assists in planning, directing, and participates in training and team activations.

Prepares the annual team budget.

Maintains accurate team records.

Oversees and is ultimately responsible for the overall operations of the team, making sure all members work together toward a successful conclusion of each task.

409.2.1 TEAM LEADERS

The Team Leader and Assistant Team Leader shall be selected by the ETU Commander and within one year's time of assignment should attend a SWAT Team Leader Course. The following represents their responsibilities for the Emergency Tactical Unit:

Team Leader:

- In charge of "on-scene" tactical operations, with the ETU Commander.
- Responsible for acting as ETU Commander in his absence.
- Coordinates the activities of team members.
- Determines, in conjunction with ETU Commander, deployment of personnel and equipment at all activities.
- Coordinates the training schedule.
- Renders decisions, in conjunction with the ETU Commander, on when and where operational deployments take place during tactical operations.
- Responsible for team readiness and ensure team members follow proper ETU policy, regulations, and guidelines.
- Maintains up-to-date training records.
- Will perform other tasks as assigned by the ETU Commander.
- Conducts periodic inspections of team members and their equipment.
- Inspects team and equipment before team engages in a mission.

Assistant Team Leader:

- Responsible for team in the Team Leader's absence.
- Assists Team Leader with team readiness, training, discipline, missions and assignments.
- Communicates directly with Team Leader regarding team issues.
- Ensures the team maintains a professional demeanor at all times.

409.3 ETU ADMINISTRATIVE PROCEDURES

ETU was established to provide a specially equipped and highly trained tactical team to be deployed during events requiring specialized tactics.

The following procedures serve as directives for the administrative operation of ETU.

409.3.1 ETU CRITERIA / SELECTION PROCESS

ETU strives to select the best possible candidate(s) for assignment on the team. The following represents the general candidate criteria and selection process:

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CRITERIA:

- (a) **Maturity.** The candidate should demonstrate an above average level of maturity, demonstrated by attitude and performance.
- (b) **Motivation.** The candidate should demonstrate an above average level of motivation and must be willing to continue this level of commitment with assignment to the team.
- (c) **Attitude.** The candidate should display a positive outlook and understand the concept of reaching goals established by the team.
- (d) **Physical Fitness.** The candidate should display an above average state of physical fitness and willingness to maintain that level of physical conditioning throughout his/her assignment on ETU.

SELECTION PROCESS:

The Emergency Tactical Unit will select all prospective members from a valid applicant pool of officers created through applicant testing. Candidates must meet all departmental requirements to be eligible to participate in the Emergency Tactical Unit selection process. Eligibility for selection is determined by the following:

- (a) Minimum of two years as a sworn police officer.
- (b) Must be off Department probation.
- (c) Must have a current, competent performance evaluation.
- (d) Maturity, determined through oral interview and review of department evaluation and divisional file.
- (e) Compatibility, free of disciplinary problems which tend to indicate failure to follow orders or cooperate with others.
- (f) Knowledge of legal aspects and department policy with regards to the use of weapons.
- (g) Physical Fitness Qualification: The physical agility test is designed to determine the physical capabilities of the applicant as it relates to performance of ETU related duties.
 - 1.5 mile run, completed in 12 minutes or less. (13 minutes over age 29 and 14 minutes over age 39)
 - 10 pull ups (over or underhanded)
 - 50 Push ups in 2 minutes
 - 50 Sit ups in 2 minutes

409.3.2 ETU CONTINUOUS QUALIFICATIONS

Continuous qualifications, consisting of a semi-annual physical fitness test and quarterly weapons' qualification test, shall be coordinated and monitored by the Team Leader and ETU Commander.

Each ETU member shall perform a physical fitness test semi-annually. Team members that fail to meet the physical qualification standards during the qualification test shall have thirty days to remediate and pass the qualification standards. Failure to meet the physical qualification standard at that time may result in removal from ETU. Team members unable to meet the fitness standards during qualification testing due to injury or illness may be extended beyond the thirty day remediation requirement at the discretion of the ETU Commander.

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Each ETU member shall perform a firearms qualification test quarterly. Team members that fail to meet the firearms qualification standards will be given the opportunity to immediately remediate and pass the qualifications standards. Continued failure to meet the firearms qualifications standards may result in removal from ETU.

409.3.3 ETU TRAINING

ETU training is comprised of two (2) training days per month that will provide the minimum number of training hours outlined in the recommendations by the California Commission on Peace Officer Standards and Training (P.O.S.T.) and the National Tactical Officers Association (N.T.O.A.). All training is documented by Team Leaders and kept on file for future reference. Each team member is required to attend all training sessions, unless granted an excused absence by the Team Leader or ETU Commander. More than one unexcused absence during any calendar year is grounds for removal from ETU.

The ETU Commander will conduct an annual ETU training needs assessment to ensure that training is conducted within team capabilities, department policies, and the training guidelines as established by POST (11 C.C.R. §1081).

In addition to mandatory training, ETU members are encouraged to train with one another, as time permits, during their regular assignments.

The ETU Team Leader will prepare a quarterly training schedule, one month prior to the beginning of each new quarter, as part of an annual training plan. The schedule will include training topics for each scheduled training day. It is the responsibility of the Assistant Team Leader to assist in the development of the schedule to distribute it to all team members. All training agendas must be approved by the Team Leader and ETU Commander.

Whenever possible, ETU members should participate in scenario-based training.

The ETU Team Leader will designate an ETU Officer as the Safety Officer for tactical exercises to ensure training is conducted in a safe manner. However, the assignment of a Safety Officer does not negate the responsibility of all ETU members to conduct training in the safest manner possible. Each ETU member is responsible for identifying potential training safety hazards and has the authority to halt any training exercise to address the hazard. When preparing quarterly training plans, the Team Leader will ensure all SWAT Core Competencies, as documented in the California P.O.S.T. SWAT Operational Guidelines and relevant to ETU's primary mission, are adequately covered in the plan over the period of one year. These areas of training include but are not limited to the following:

WEAPONS, MUNITIONS, AND EQUIPMENT:

- Armored Vehicle Operations
- Equipment Familiarization and Maintenance
- Firearm Skills (live fire) - *Handgun, Low light/night training, Shoulder-fired weapons*
- Individual Operators Uniform Maintenance and Wear
- Ladder and Other High Angle Access
- Lighting Systems (personal, weapons, others)
- Mechanical Breaching - *12-gauge shotgun breaching, rams, picks, pullers, etc*
- Munitions
 - Chemical Agents: Options and delivery systems
 - Less lethal impact munitions and delivery

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- Light/sound diversionary devices
- Other less lethal devices
- Night Vision Equipment
- Use of Ballistic Shield
- Weapons Maintenance

INDIVIDUAL AND TEAM MOVEMENT AND TACTICS:

- Active Shooter Response
- Barricaded Subject Operations
- Booby Traps
- Camouflage Techniques
- Conducting Evacuations
- Containment Techniques
- Cover and Movement
- Covert Clearing
- Downed Officer/Citizen Rescues
- Dynamic Clearing
- Emergency Deployment Technique
- Entries
- High Risk Warrant Service (*Contain & call-out, Dynamic, Remote takedown, Ruses, etc...*)
- Homicide Bombers
- Immediate Action Drills
- Long Rifle Initiated Assaults
- Night Movement
- Reactionary Responses
- Rescue Operations
- Rural Operations
- Scouting
- Searching Techniques
- Small Unit Tactics
- Tactical Operation Center
- Vehicle Assaults (*Bus, Car, Van, Truck*)

DECISION-MAKING:

- Mission and Tactical Contingency Planning
- Training Simulations (scenario-based training)
 - Barricaded subject/suspect
 - High Risk Warrant (dynamic, contain & call-outs, etc...)
 - Hostage situations

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Emergency Tactical Unit (ETU)

- Suicide Intervention
- Warrant Service Work-ups and Planning

SPECIALIZED FUNCTIONS AND/OR SUPPORTING RESOURCES:

- Counter-Terrorism
- Executive Protection
- Rescue Operations- Advanced
- Riot Response
- Surveillance
- Tactical Emergency Medical Support
- Team Leader Training
- Train/Trolley Assaults
- WMD Response

409.3.4 TEAM EVALUATION

Continual evaluation of a team member's performance and efficiency as it relates to the positive operation of the unit shall be conducted by the ETU Commander. The performance and efficiency level, as established by the ETU Commander and Team Leaders, will be met and maintained by all ETU members. Any ETU member who performs or functions at a level less than satisfactory shall be dismissed from the team.

409.3.5 ETU MEMBER ACTIVATION

ETU members shall not be deployed on any ETU mission until they have successfully completed a P.O.S.T. certified basic SWAT course and have passed the ETU physical and firearms qualification courses.

409.3.6 OUTSIDE AGENCY REQUESTS FOR ETU ASSISTANCE

Outside agency requests for ETU assistance must be approved by the Chief of Police or his designee. While assisting outside agencies, the Emergency Tactical Unit will remain intact and under direct supervision of the ETU Commander.

409.3.7 DOCUMENTATION OF ETU ACTIVATIONS

The ETU Commander or Team Leader will cause a "Team Activation Packet" to be generated detailing the operational plans, actions, and results of all ETU operations. This report will include, but not be limited to the following:

Pre-Deployment Information, Structure Information, Suspect Verification and Information, Location Verification and Information, Investigative Information, Medi-Vac Information, Convoy Route Information, Known Juveniles at the Location, Potential Threats Near the Location (Schools, Parks, Businesses, etc) and if they need to be evacuated, Team Assignment Information, Perimeter Control Information, a Specific Mission Plan identifying ETU Team Member Responsibilities, and After Action Information.

409.3.8 FIRE AND/OR MEDICAL AID PERSONNEL

Fire and/or Medical Aid personnel should always be staged at or near the ETU Command Post on all tactical operations.

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409.4 OPERATION GUIDELINES FOR EMERGENCY TACTICAL UNIT

The following procedures serve as guidelines for the operational deployment of the Emergency Tactical Unit.

Mission briefings should be conducted prior to any ETU operations, unless the circumstances require immediate deployment. Mission briefings shall include all ETU members participating in the deployment and supporting resources if available.

409.4.1 APPROPRIATE SITUATIONS FOR USE OF ETU

ETU is a specialized unit of officers specifically used in the following situations:

- Barricaded suspects who refuse an order to surrender;
 - A situation where the individual(s) are contained within a location and are known not to have hostages, but refuse to exit and surrender to Law Enforcement.
 - ETU would respond, if practical, and would remain in control of the incident until relieved by an allied agency tactical team with more resources to better handle the incident to its conclusion.
- Incidents where hostages are taken;
 - ETU would respond, if practical, and would be utilized as an Emergency Response Team (ERT) for the immediate rescue of hostages, if they are placed in grave danger, until relieved by an allied agency tactical team with more resources to better handle the incident to its conclusion.
- VIP Protection;
 - ETU can be utilized for securing the movement and/or assisting those agencies/organizations who are responsible for VIP protection. ETU will be used at the direction of the ETU Commander and not at the direction of the VIP's agency or organization. ETU will assume total control over these types of operations.
- Planned arrest/warrant service where a clear and present threat exists;
 - Under these circumstances, ETU Team Leaders and/or their designees will be responsible for reviewing the criminal investigation leading up to the arrest/warrant service and preparing a tactical plan for the operation. ETU will consider the needs of the criminal investigation, as it relates to the preservation of evidence, while at the same time taking into account the safety needs of the public, suspect(s), and ETU members. In a pre-planned operation, a reasonable amount of time should be given to ETU in order for the team to properly conduct a tactical investigation.
- Riot and Crowd Control;
 - ETU will assist and provide guidance to first responders or work as a collective unit depending on the situation.
- Anti-Sniper Tactical Response;
 - ETU will work as a unit and/or with other tactical teams that are capable of performing these tasks.
- Open area searches for armed and dangerous suspects;

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- ETU will work as a unit and/or with other tactical teams that are capable of performing these tasks.
- Rescuing citizens, police officers, or other public safety personnel isolated or endangered by gunfire.
- Any situation that could enhance the ability to preserve life, maintain social order, and ensures the protection of property.

The following circumstances **shall** warrant the activation of ETU:

- In any hostage situation, ETU **shall** be called immediately. Field units shall secure the area, establish a perimeter, attempt to make contact with the suspect(s), and control the situation until relieved by ETU personnel.
- In sniper incidents, require field units **shall** secure the area, establish a safe perimeter, and attempt to identify the sniper's location. The Watch Commander shall request ETU.
- ETU shall be called if a potentially armed suspect barricades himself and, after a reasonable period of time, fails to surrender. If it is known shots have been fired, the area shall be secured and ETU called. If it becomes a self-defense situation, officers on scene shall take the appropriate action, however, once the situation is stabilized, the officers **shall** maintain the perimeter and request ETU.
- ETU **shall** be called immediately if there is a threat or assault by a terrorist organization. Officers in the field shall avoid contact with the group except in self-defense or life threatening situations to themselves or others. Field units shall set up a perimeter and secure the area as well as they can.

409.4.2 MOBILIZATION OF ETU

The on-duty Watch Commander will assess whether ETU should be requested to respond to a critical incident in progress. Upon making the determination to request ETU, the Watch Commander shall contact the ETU Commander, prior to calling out ETU personnel. In the absence of the ETU Commander, the Watch Commander shall contact the ETU Team Leader, prior ETU's deployment. The Watch Commander should be prepared to provide the following information:

- Number of known suspect(s) and their weapons and resources;
- If the suspect is in control of the hostages;
- If the suspect is barricaded;
- The type of crime involved;
- If the suspect has threatened or attempted suicide;
- The location of the command post and a safe approach to it;
- The extent of the perimeter and the number of officers involved; and
- Any other important facts critical to the immediate situation and whether the suspect has refused an order to surrender.

The ETU Commander or Team Leader shall direct the Watch Commander to notify dispatch to call ETU team members to respond.

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409.4.3 CALL OUT PROCEDURES FOR ETU PERSONNEL

When activated, all ETU personnel shall respond to the location as soon as possible. ETU activations take precedence over all other assignments within the department. If an officer's response is delayed, it is the officer's responsibility to notify the ETU Commander or dispatch, explaining the delay and an estimated time of arrival.

While responding, ETU members should monitor the radio to ensure necessary ETU equipment is being picked up and deployed to the scene of the critical incident.

The first ETU Officer on scene should attempt to locate a suitable place for the ETU Command Post and direct other ETU members to the location. The ETU Officer may also opt to have dispatch send out additional information to responding officers as to the location of the ETU Command Post and the safest approach to it.

The Team Leader on scene should ensure ETU's objectives are being accomplished prior to deploying himself.

If personnel are deployed prior to the arrival of the ETU Commander or Team Leaders, the senior officer is responsible for noting and briefing the ETU Command Post prior to his deployment.

ETU members **shall** be equipped with proper uniform, weapons, equipment, etc., to perform their duties safely **before** leaving the command post for deployment.

ETU members **shall** perform a radio check prior to deploying from the command post and ensure they are on the proper frequency.

ETU members will initially be deployed on assignments of highest priority first. If and when time permits, ETU members may be switched depending on the needs of the incident.

409.4.4 FIELD UNIT RESPONSIBILITIES

While waiting for ETU, field personnel should, if safe and practical:

- Establish an inner and outer perimeter;
- Establish a command post outside the inner perimeter;
- Evacuate any injured persons or citizens in the zone of danger;
- Attempt to establish preliminary communication with the suspect. Once ETU has arrived, all negotiations should be halted to allow ETU time to set up;
- Be prepared to brief the ETU Commander on the situation; and
- Plan for, and stage, anticipated resources.

409.4.5 ON-SCENE COMMAND RESPONSIBILITIES

Upon arrival of ETU at the scene, the Incident Commander shall brief the ETU Commander and Team Leaders about the situation. The Incident Commander shall continue supervision of the command post operation, outer perimeter security, and support for ETU.

409.4.6 RADIO/COMMUNICATIONS WITH ETU PERSONNEL

All persons who are non-ETU personnel should refrain from any contact or interference with any member of the unit during the incident. Operations require the utmost in concentration by involved personnel and, as a result, no one should interrupt or communicate with

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ETU personnel directly. All such communications shall be channeled through the ETU Commander or his or her designee.

The following radio protocols are essential to the successful team operation:

- Intelligence gained by perimeter positions and updates received at the command post must be broadcast to team members in a timely manner.
- Make sure radio is working prior to deployment.
- Always remain professional.
- Conversations should be restricted to brief/vital messages.
- Report activity within incident perimeter in a timely fashion.
- Team Leaders should handle radio communications with command post, unless otherwise designated or unable.
- Team Leaders shall notify the command post of any shots fired immediately, or as soon as tactically safe to do so.

409.4.7 ETU COMMAND POST

Effective command post operations are critical to the success of the ETU mission. The ETU command post should be set up at a location away from the patrol command post and should consider the following:

- Congestion
- Staging area for ETU members
- Equipment security and deployment
- Press exposure
- Secure for tactical conversations
- A location which affords safe and close proximity to the target location.

As part of the ETU Command Post, a dispatcher can be used for inner perimeter communications and records keeping purposes. The dispatcher shall maintain a chronological log of inner perimeter communications and actions from the beginning of the incident until its conclusion. The log shall become part of the "Team Activation Package." Dispatchers acting in this role should have tactical dispatch training.

409.4.8 ETU WEAPONS

ETU members will use their assigned primary firearms, some of which have full-automatic capabilities. With regards to the use of the primary weapon on full-automatic mode, it is the understanding of all ETU members that their primary weapons will be deployed in the semi-automatic mode, except for pre-planned operations requiring a full-automatic deployment. However, knowing tactical operations are unpredictable once they start, ETU members encountering force have the ability to determine whether the circumstances dictate the use of the full-automatic mode, based on the facts available to them at that time.

409.4.9 ENTRY TEAM

Entry Team tactics are to remain flexible and at the discretion of the Team Leader based on the specific mission requirements, in consultation with the ETU Commander when possible.

Upon securing the location, the Team Leader will notify the ETU Commander the location is secure. Prior to turning the location over to the Case Agent, the Team Leader will ensure

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photos of the location's current condition are taken and a sketch of the interior layout is prepared. Additionally, the Team Leader will ensure all ETU equipment used during the incident is removed from the location, Unless any equipment used during the operation must maintain its position for evidentiary purposes. The ETU Commander will relinquish control of the location to the Case Agent once ETU Members have completed these tasks.

409.5 POST INCIDENT DEBRIEFINGS

Evaluation and analysis of critical incidents affords opportunity for individual and team assessment, helps to identify training needs, and reinforces sound risk management practices.

After-action team debriefings should be conducted as soon as possible after the incident to ensure the incident's events are fresh in the minds' of team members.

409.6 TEAM EQUIPMENT/RESPONSIBILITIES

In an effort to maintain ETU equipment, each individual team member is assigned a specific responsibility involving equipment. It is the individual team member's responsibility to ensure his/her assigned equipment is adequately stocked, maintained, and operating properly. Team members are to report any equipment problems to the Team Leaders immediately.

Team Leaders are to ensure team members are completing/adhering to their assigned responsibilities. A list of assigned responsibilities will be maintained by the Team Leader.

409.6.1 EQUIPMENT DEPLOYMENT

ETU members will only deploy equipment they have trained with and have shown proficiency in its use in a proper and safe manner. Although ETU members are proficient in a wide variety of specialized equipment, careful consideration will be made for each tactical operation to determine which equipment is most suited for the operation. All available ETU equipment should be deployed during ETU incidents in either the equipment truck or armored vehicle. This eliminates delays in retrieving equipment that may be required to bring the situation to a successful conclusion.

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 Banning Police Department Ride-Along Program is offered to residents, police and dispatch applicants, 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 each day of the week, with certain exceptions established by the on-duty Watch Commander. Ride-alongs may occur at any time of the day or night with exceptions made by the Chief of Police, a Lieutenant, or the on-duty Watch Commander.

410.2 PROCEDURE TO REQUEST A RIDE-ALONG

Generally, ride-along requests will be scheduled by the on duty Watch Commander or the Watch Commander responsible for the time or shift when the ride-along is to occur. The participant will complete a ride-along waiver form and a computerized background check. 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.

A Watch Commander or his/her representative will schedule a date, based on availability. The completed waiver will be submitted to Division Lieutenant with the Watch Commander Log for filing.

If the ride-along is denied after the request has been made, a representative of the Police 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 on-duty 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 Banning 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 Watch Commander is responsible for maintaining and scheduling ride-alongs. Upon completion of the ride-along, the yellow form shall be returned to the Watch Commander with any comments which may be offered by the officer.

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
- (b) The ride-along will not become involved in any investigation, handling of evidence, discussions with victims or suspects, or handling any police equipment

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- (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

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.

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.

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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.

Hostages and Barricaded Suspects

414.1 PURPOSE AND SCOPE

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

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

414.1.1 DEFINITIONS

Definitions related to this policy include:

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

Hostage situation - An incident where it is reasonable to believe a person is unlawfully held by a hostage-taker as security so that specified terms or conditions will be met.

414.2 POLICY

It is the policy of the Banning Police Department to address hostage and barricade situations with due regard for the preservation of life and balancing the risk of injury, while obtaining the safe release of hostages, apprehending offenders and securing available evidence.

414.3 COMMUNICATION

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

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

414.3.1 EMERGENCY COMMUNICATIONS

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

- (a) The officer reasonably determines an emergency situation exists that involves the immediate danger of death or serious physical injury to any person within the meaning of 18 USC 2518(7)(a)(i),

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- (b) The officer reasonably determines that the emergency situation requires that eavesdropping on oral communication occur immediately, and
- (c) There are grounds upon which an order could be obtained pursuant to 18 USC 2516(2).
- (d) An application for an order approving the eavesdropping and complying with the requirements of Section 629.50 is made within 48 hours of the beginning of the eavesdropping.
- (e) The contents of any oral communications overheard are recorded on tape or other comparable device.

414.4 FIRST RESPONDER CONSIDERATIONS

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

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

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

414.4.1 BARRICADE SITUATION

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

- (a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- (b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.
- (c) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).
- (d) Provide responding emergency personnel with a safe arrival route to the location.
- (e) Evacuate non-injured persons in the immediate threat area if it is reasonably safe to do so.
- (f) Attempt or obtain a line of communication and gather as much information on the subject as possible, including weapons, other involved parties, additional hazards or injuries.
- (g) Establish an inner and outer perimeter as circumstances require and resources permit to prevent unauthorized access.

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- (h) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.
- (i) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the Press Information Officer.
- (j) If necessary and available, establish a tactical or exclusive radio frequency for the incident.
- (k) Establish a command post.
- (l) Request ETU response if a potentially armed suspect barricades themselves and after a reasonable period of time fails to surrender. If it is known that shots have been fired, the area shall be secured and ETU called. If it becomes a self-defense or preservation of life situation, officers on scene shall take the appropriate action, however, once the situation is stabilized, officers shall maintain the perimeter and request ETU.

414.4.2 HOSTAGE SITUATION

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

- (a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- (b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.
- (c) Establish a rapid response team in the event it becomes necessary to rapidly enter a building, structure or vehicle, such as when the suspect is using deadly force against any hostages (see the Rapid Response and Deployment Policy).
- (d) Assist hostages or potential hostages to escape if it is reasonably safe to do so. Hostages should be kept separated if practicable pending further interview.
- (e) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).
- (f) Provide responding emergency personnel with a safe arrival route to the location.
- (g) Evacuate non-injured persons in the immediate threat area if it is reasonably safe to do so.
- (h) Coordinate pursuit or surveillance vehicles and control of travel routes.
- (i) Attempt or obtain a line of communication and gather as much information about the suspect as possible, including any weapons, victims and their injuries, additional hazards, other involved parties and any other relevant intelligence information.
- (j) Establish an inner and outer perimeter as resources and circumstances permit to prevent unauthorized access.
- (k) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.
- (l) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the Press Information Officer.

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- (m) If necessary and available, establish a tactical or exclusive radio frequency for the incident.

414.5 SUPERVISOR RESPONSIBILITIES

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

- (a) Ensure injured persons are evacuated and treated by medical personnel.
- (b) Ensure the completion of necessary first responder responsibilities or assignments.
- (c) Request crisis negotiators, specialized units, additional personnel, resources or equipment as appropriate.
- (d) Establish a command post location as resources and circumstances permit.
- (e) Designate assistants who can help with intelligence information and documentation of the incident.
- (f) If it is practicable to do so, arrange for video documentation of the operation.
- (g) Consider contacting utility and communication providers when restricting such services (e.g., restricting electric power, gas, telephone service).
- (h) Ensure adequate law enforcement coverage for the remainder of the City during the incident. The supervisor should direct non-essential personnel away from the scene unless they have been summoned by the supervisor or Dispatch.
- (i) Identify a media staging area outside the outer perimeter and have the department Press Information Officer or a designated temporary media representative provide media access in accordance with the News Media Relations Policy.
- (j) Identify the need for mutual aid and the transition or relief of personnel for incidents of extended duration.
- (k) Debrief personnel and review documentation as appropriate.

414.6 EMERGENCY TACTICAL UNIT RESPONSIBILITIES

The Incident Commander will decide, with input from the ETU Commander or his/her authorized designee, whether to deploy the ETU during a hostage or barricade situation. Once the Incident Commander authorizes deployment, the ETU Commander or his/her authorized designee will be responsible for the tactical portion of the operation. The Incident Commander shall continue supervision of the command post operation, outer perimeter security and evacuation, media access and support for the ETU. The Incident Commander and the ETU Commander or his/her authorized designee shall maintain communications at all times.

414.7 REPORTING

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

Response to Bomb Calls

416.1 PURPOSE AND SCOPE

These guidelines have been prepared to assist officers in their initial response to incidents involving explosives, explosive devices, or explosion/bombing incidents. Under no circumstances should these guidelines be interpreted as compromising the safety of first responders or the public. When confronted with an incident involving explosives, safety shall always be the primary consideration.

416.2 FOUND EXPLOSIVES/SUSPECT DEVICES

When handling an incident involving a suspected explosive device, the following guidelines should be followed:

- (a) No known or suspected explosive item should be considered safe regardless of its size or apparent packaging. The appropriate bomb squad or military explosive ordnance disposal team should be summoned for assistance.
- (b) A minimum perimeter of 300 feet should be established around the device. An access point should be provided for support personnel.
- (c) As much information as is available should be promptly relayed to the Watch Commander including:
 1. The stated threat.
 2. Exact comments.
 3. Time of discovery.
 4. Exact location of the device.
 5. Full description (e.g., size, shape, markings, construction) of the device.
- (d) The device should not be touched or moved except by qualified bomb squad personnel.
- (e) All equipment within 300 feet of the suspected device capable of producing radio frequency energy should be turned off. This includes two-way radios, cell phones and other personal communication devices.
- (f) Consideration should be given to evacuating any buildings near the device.
- (g) A search of the area should be conducted for secondary devices or other objects that are either hazardous or foreign to the area and a perimeter should be established around any additional suspicious device found.

Explosive or military ordnance of any type should be handled only by the bomb squad or military ordnance disposal team.

416.3 EXPLOSION/BOMBING INCIDENTS

When an explosion has occurred, there are multitudes of considerations which may confront the responding officers. As in other catastrophic incidents, a rapid response may help to minimize injury to victims, contamination of the scene by gathering crowds, or additional damage by resulting fires or unstable structures. Whether the explosion was the result of an accident or a criminal act, the responding officers should consider the following actions:

- Assess the scope of the incident, including the number of victims and extent of injuries.

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- Assist with first aid (Fire Department has primary responsibility).
- Assist with evacuation of victims (Fire Department has primary responsibility).
- Identify and take appropriate precautions to mitigate scene hazards such as collapsed structures, bloodborne pathogens, hazardous materials and secondary explosive devices.
- Request additional resources as needed.
- Identify witnesses.
- Preserve evidence.

416.3.1 NOTIFICATIONS

When an explosion has occurred, the following people shall be notified as soon as practicable if their assistance is needed:

- (a) Fire Department
- (b) Bomb Squad
- (c) Additional officers
- (d) Field supervisor
- (e) Watch Commander
- (f) Detectives
- (g) Forensic Science Services

416.3.2 CROWD CONTROL

Only authorized personnel with a legitimate need shall be permitted access to the scene. Spectators and other unauthorized individuals shall be excluded to a safe distance as is reasonably practicable given the available resources and personnel.

416.3.3 SCENE OF INCIDENT

As in any other crime scene, steps should immediately be taken to preserve the scene. The scene could extend over a long distance. Evidence may be imbedded in nearby structures or hanging in trees and bushes.

416.4 BOMB THREATS RECEIVED AT POLICE FACILITY

This procedure shall be followed should a bomb threat call be received at the police facility.

416.4.1 BOMB THREATS RECEIVED BY TELEPHONE

The following questions should be asked if a call of a bomb threat is received at the Police Department:

- When is the bomb going to explode?
- Where is the bomb?
- What kind of bomb is it?
- What does it look like?
- Why did you place the bomb?
- Who are you? (to avoid possible termination of the call this should be the last question asked)

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Response to Bomb Calls

Attempt to keep the caller on the line as long as possible and obtain expanded answers to these five basic questions.

During this time, document the following:

- Time of the call.
- Exact words of the person as accurately as possible.
- Estimated age and gender of the caller.
- Speech patterns and/or accents.
- Background noises.

If the incoming call is received at the police facility on a recorded line, steps shall be taken to ensure that the recording is preserved in accordance with current department evidence procedures.

416.4.2 RESPONSIBILITIES

The employee handling the call shall ensure that the Watch Commander is immediately advised and fully informed of the details. The Watch Commander will then direct and assign officers as required for coordinating a general building search or evacuation as he/she deems appropriate.

Mental Illness Commitments

418.1 PURPOSE AND SCOPE

This procedure describes an officer's duties when a person is to be committed to a mental health unit pursuant to Welfare and Institutions Code § 5150. The commitment of a person under § 5150 does not constitute an arrest. If an officer believes that a person falls within the provisions of Welfare and Institutions Code § 5150, he/she shall transport that person to the designated facility for evaluation and commitment.

418.2 AUTHORITY

Pursuant to Welfare and Institution Code § 5150 when any person, as a result of mental disorder, is a danger to others, or to himself or herself, or gravely disabled, a peace officer, or other individual authorized by statute may, upon probable cause, take, or cause to be taken, the person into custody and place him or her in a facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation.

Such facility shall require an application in writing stating the circumstances under which the person's condition was called to the attention of the officer, or other individual authorized by statute has probable cause to believe that the person is, as a result of mental disorder, a danger to others, or to himself or herself, or gravely disabled. If the probable cause is based on the statement of a person other than the officer, or other individual authorized by statute, such person shall be informed that they may be liable in a civil action for intentionally giving a statement which he or she knows to be false.

418.3 OFFICER CONSIDERATIONS AND RESPONSIBILITIES

Any officer responding to or handling a call involving a suspected mentally disabled individual or an involuntary mental illness commitment should consider utilizing the following as time and circumstances reasonably permit:

- (a) Any available information that might assist in determining the cause and nature of the mental illness or developmental disability.
- (b) Conflict resolution and de-escalation techniques.
- (c) Language that is appropriate for interacting with a mentally disabled person.
- (d) If circumstances permit, alternatives to deadly force.
- (e) Any available community resources that can assist in dealing with a mentally disabled individual.

418.3.1 TRANSPORTATION

When transporting any individual for a "5150" commitment, the handling officer should have Dispatch notify the receiving facility of the estimated time of arrival, the level of cooperation of the patient and whether or not any special medical care is needed.

"5150 commitments may be transported by officers or ambulance. Officers transporting patients in the patrol unit shall secure them in accordance with the handcuffing policy. Violent patients may be restrained and transported by ambulance personnel. The officer will escort the patient into the facility and place that person in a designated treatment room as

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Mental Illness Commitments

directed by a staff member. As soon as a security staff member becomes available, he/she should relieve the officer and physically remain in the treatment room with the patient.

418.3.2 RESTRAINTS

If the patient is violent or potentially violent, the officer will notify the staff of this concern. The staff member in charge will have discretion as to whether soft-restraints will be used. If these restraints are desired, the officer will wait while they are being applied to help provide physical control of the patient, if needed.

418.3.3 MENTAL HEALTH DOCUMENTATION

The officer will complete an Application For 72-Hour Detention for Evaluation and Treatment form (MH-302) and provide it to the staff member assigned to that patient. The officer will retain a copy of the 72-hour evaluation for inclusion in the case report. The officer shall also provide a verbal summary to an emergency department staff member regarding the circumstances leading to the involuntary detention.

418.3.4 SECURING OF WEAPONS

If a receiving and secured facility prohibits weapons or if an extraordinary event occurs in the treatment facility and officers determine a need to secure their firearms, the firearm shall be secured in the appropriate gun locker at the facility or in the police unit.

418.4 MENTALLY ILL PERSON CHARGED WITH A CRIME

When practical, any person charged with a crime who also appears to be mentally ill shall be booked at the Banning Police Department before being transported to the authorized facility. If the person has injuries or some other medical condition, he/she may be taken directly to the hospital with the approval of a supervisor.

418.5 CONFISCATION OF FIREARMS AND OTHER WEAPONS

Whenever a person has been detained or apprehended for examination pursuant to Welfare and Institutions Code § 5150, the handling officer should seek to determine if the person owns or has access to any firearm or other deadly weapon. Any such firearm or other deadly weapon should be confiscated in a manner consistent with current search and seizure law (Welfare and Institutions Code § 8102(a)).

Officers are cautioned that a search warrant may be needed before entering a residence or other place to search unless lawful, warrantless entry has already been made (e.g., exigent circumstances, valid consent) (Penal Code § 1524).

For purposes of this section, deadly weapon means any weapon, the possession of which or carrying while concealed, is prohibited by Penal Code § 19100; 21310.

The officer taking custody of any firearm or other deadly weapon shall issue the individual possessing such weapon a receipt, fully describing the weapon (including any serial number) and indicating the location where the weapon may be recovered, along with any applicable time limit for recovery (Penal Code § 33800).

The handling officer shall further advise the person of the below described procedure described below for the return of any firearm or other deadly weapon which that has been confiscated (Welfare and Institutions Code § 8102(a)). For purposes of this section deadly weapon means any weapon that the possession of or carrying while concealed is prohibited by Penal Code § 19100; 21310.

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418.5.1 RETURN OF CONFISCATED FIREARMS AND WEAPONS

- (a) Whenever the handling officer has cause to believe that the future return of any confiscated weapon(s) might endanger the person or others, the officer shall detail those facts and circumstances in a report. The report shall be forwarded to the Detective Bureau which shall be responsible for initiating a petition to the superior court for a hearing in accordance with Welfare and Institutions Code § 8102(b), to determine whether or not the weapon(s) will be returned.
- (b) The petition to the Superior Court shall be initiated within 30 days of the release of the individual from whom such weapon(s) have 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 or her of the right to a hearing on the issue and that he or 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(s).
- (c) If no petition is initiated within the above period, the Department shall make the weapon(s) available for return in accordance with subsection (d) below. If the person does not confirm a desire for a hearing within the prescribed 30 days, the Department may file a petition for an order of default.
- (d) 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 which conforms to the provisions of Penal Code § 33865.
- (e) In no case in which a firearm or other deadly weapon is not retained as evidence shall the Department be required to retain such firearms 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).

418.6 TRAINING

As a part of advanced officer training programs, this agency will endeavor to include POST approved training on interaction with mentally disabled persons as provided by Penal Code § 13515.25.

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 JAIL RELEASE

In certain cases, it may be impractical to release a person arrested for misdemeanor offenses in the field. The person arrested may instead be released after booking at the jail, with Watch Commander approval.

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Cite & Release Policy

Any person arrested for a misdemeanor offense shall be released on his/her written promise to appear after the booking procedure is completed, unless disqualified for reasons listed below.

420.3.3 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)):

- (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 Banning 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 Records Bureau.

420.3.4 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

420.3.5 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

Release under this section shall be done in accordance with the provisions of this section.

420.5 JUVENILE CITATIONS

Completion of criminal citations for juveniles is generally not appropriate with the following exceptions:

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- Misdemeanor traffic violations of the Vehicle Code
- Violations of the City of Banning City Municipal Codes

All other misdemeanor violations for juveniles shall be documented with a case number and appropriate paperwork and referred to the Records Bureau for filing and dissemination to the appropriate agencies.

420.6 REQUESTING CASE NUMBERS

Many cases involving a criminal citation release can be handled without requesting a case number. Traffic situations and Banning Municipal Code violations can be documented on the reverse side of the records copy of the citation. Most Penal Code sections 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.

Disturbance at Public Meetings

421.1 PURPOSE AND SCOPE

It is the policy of the Banning Police Department to assist the Mayor, City Manager, Commission Chairpersons, and City Department Heads to remove and/or arrest any person(s) at public meetings.

421.2 VIOLATIONS

Person(s) who disrupt or cause a disturbance at a public meeting are in violation of Penal Code § 403 and California Elections Code § 29440. Both of these sections are classified as misdemeanors.

421.2.1 PROCEDURES TO FOLLOW

When responding to a disturbance at a public meeting and criminal charges are requested following procedures shall be followed:

- (a) Request that the meeting be recessed by the Mayor or Chairperson and members of the City Council or Commissioners leave the meeting.
- (b) Request that the Mayor, Chairperson, or City Manager identify the person to be removed from the meeting.
- (c) Remove the person(s) utilizing the least amount of force necessary to accomplish the task.
- (d) If criminal charges are desired and the offense was not committed in the presence of a police officer, the Mayor, Chairperson, or City Manager will have to make a citizen's arrest.
- (e) Once the citizen's arrest has been made, the officer(s) will have the discretion to cite and release or transport the person(s) to the Riverside County Jail.
- (f) Complete all of the appropriate reports.

421.2.2 CRIMINAL CHARGES

If the Mayor, Commission Chairperson or City Manager does not wish to pursue criminal charges, the person(s) will be released, but warned about the possibility of arrest for returning and continuing to disrupt the meeting. All detained and released persons shall receive § 849(b) Penal Code notices.

421.3 CITY COUNCIL PROCEDURES

421.3.1 RIGHTS OF CITIZENS ATTENDING MEETINGS

Citizens have the right to attend the meetings of most governmental bodies and they may be permitted to address the body on subjects relevant to its business. However, citizens must observe all the rules and regulations of the body regarding attendance and addressing its members.

Members of the public attending the meetings of governmental bodies do not have the right to interrupt or heckle. They have the right only to seek permission to be heard or to ask questions in accordance with whatever provisions for hearing public opinions or answering

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Disturbance at Public Meetings

questions are fixed by law or have been adopted as rules of the body. They have the right to submit written petitions, protests, and requests for hearings.

421.3.2 LEGAL SOURCES

- (a) California Penal Code - § 403. This section reads, "Every person who, without authority of law, willfully disturbs or breaks up any assembly or meeting, not unlawful in its character, other than such mentioned in § 302 of the Penal Code and § 29440 of the Elections Code, is guilty of a misdemeanor." § 302 of the Penal Code refers to disturbing a religious meeting.
- (b) Elections Code - § 29440. This section reads, "Every person who, by threats, intimidations, or unlawful violence willfully hinders or prevents electors from assembling in public meetings for consideration of public questions is guilty of a misdemeanor."

421.3.3 PROCEDURES

In the event the Mayor wants an individual removed from a public meeting, for a violation of the above laws, and requests Police Department assistance, the following procedures are recommended:

- (a) The following warnings shall be given:
 - 1. Mr/Mrs. (Identify by name if known; if not, refer to "Sir/Madam"). Your conduct is disturbing the meeting. If you persist in your behavior, I shall order that you be taken into custody.
 - 2. If the disturbance continues a second warning shall be given stating, "Your conduct makes it impossible for this meeting to continue. You must remain seated and silent unless recognized by the chair, or you will be taken into custody. "
- (b) The Mayor recesses the City Council meeting. This procedure is important if criminal charges are to be pursued.
- (c) All Council Members leave the Council Chambers (To the City Manager's Office or Conference Room).
- (d) Upon the arrival of the police officers, the City Manager will identify the person(s) to be removed, and inform the police officers if criminal charges are desired.
- (e) The police officers will take control and use as much time as necessary to remove the person(s), utilizing the least amount of force.
- (f) Once the person(s) have been removed, and the Council Chambers secured, a police officer will inform the City Manager and request that a citizen's arrest procedure take place, and that the appropriate forms be signed by the Mayor or City Manager.
- (g) The City Manager shall inform the Mayor that the City Council has been cleared of the disruption, and that the Council Meeting can be reconvened.

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.

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

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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 Emergency Management Agency (Cal EMA).

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.

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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 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

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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 San Francisco, CA (415) 744-2910, Ext. 22 or 23 (415) 744-2913 FAX (0800-1700 PST) Office of Foreign Missions Diplomatic Motor Vehicle Office Washington D.C. (202) 895-3521 (Driver License Verification) or (202) 895-3532 (Registration Verification) (202) 895-3533 FAX (0815-1700 EST)	Office of the Foreign Missions Los Angeles, CA (310) 235-6292, Ext. 121 or 122 (310) 235-6297 FAX (0800-1700 PST) Department of State Diplomatic Security Service Command Center Washington D.C. (202) 647-7277 (202) 647-1512 (Available 24 hours) (202) 647-0122 FAX
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Members of diplomatic or consular missions also may have other forms of identification. These include identification cards issued by California Emergency Management Agency (Cal EMA), 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.

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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.

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.

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- 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.

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 Dispatch as soon as practical and request the appropriate embassy/consulate be notified. Officers shall provide Dispatch 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 Dispatch 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 Dispatch was notified of the foreign national's arrest/detention and his/her claimed nationality.

Rapid Deployment Policy

424.1 PURPOSE AND SCOPE

Violence in schools, workplaces and other locations by any individual or group of individuals presents a difficult situation for law enforcement. The purpose of this policy is to identify guidelines and factors that will assist responding officers as they make decisions in these rapidly unfolding and tense situations.

424.2 POLICY

The policy of this department in dealing with the crisis situation shall be:

- (a) To obtain and maintain complete operative control of the incident.
- (b) To explore every reasonably available source of intelligence regarding the circumstances, location, and suspect(s) in the incident.
- (c) To attempt, by every means available, to attain any tactical advantage over the responsible individual(s).
- (d) To attempt, whenever feasible, a negotiated surrender of the suspect(s) and release of the hostages through the expertise of the members of this department and others.
- (e) When an emergency situation exists, neutralize the threat as rapidly as reasonably possible to minimize injury and loss of life.

Nothing in this policy shall preclude the use of necessary force, deadly or otherwise, by members of this department in protecting themselves or others from death or serious injury.

424.3 PROCEDURE

If there is a reasonable belief that acts or threats by a suspect are placing lives in imminent danger, first responding officers should consider reasonable options to immediately eliminate the threat. Officers must decide, often under a multitude of difficult and rapidly evolving circumstances, whether to advance on the suspect, take other actions to deal with the threat or wait for additional resources.

When deciding on a course of action officers should consider:

- (a) Whether sufficient personnel are available on-scene to advance on the suspect. Any advance on a suspect should be made using teams of two or more officers whenever reasonably possible.
- (b) Whether individuals who are under imminent threat can be moved out of danger with reasonable safety.
- (c) Whether the officers have the ability to effectively communicate with others in the field.
- (d) Whether planned tactics can be effectively deployed.
- (e) The availability of rifles, shotguns, shields, control devices and any other appropriate tools, and whether the deployment of these tools will provide a tactical advantage.
- (f) In a case of a barricaded suspect with no hostages and no immediate threat to others, officers should consider summoning and waiting for additional assistance (special tactics and/or hostage negotiation team response).

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- (g) If a suspect is actively engaged in the infliction of serious bodily harm or other life-threatening activity toward others, the officer should take immediate action, if reasonably possible, to stop the threat presented by the suspect while calling for additional assistance.

Illegal Auto Sales

425.1 PURPOSE AND SCOPE

The purpose of this General Order is to establish a Department Procedure for the proper handling of illegal auto sales in the City of Banning.

425.1.1 PROCEDURES

This policy outlines the procedures for dealing with automobiles being sold upon or within the limits of a parcel of land, that is vacant or upon which are present only vacant structure(s), by any person other than the owner of such parcel.

(a) COURSE OF ACTION

1. Officer sees an auto for sale on a parcel of land that is vacant or upon which are present only vacant structure(s).
2. Officer calls the phone number on the window and confirms the person on the phone is the owner of the vehicle and not the owner of the land. (Officer confirms through RIMS that the owner has not received a previous warning regarding the noted BMC sections.)
3. Officer advises the owner to immediately respond to the location and remove the vehicle. Officer advises owner that if the vehicle is not removed from the location within two hours they can be cited and their vehicle impounded.
4. When the owner arrives, the officer shall verbally warn them of the noted violations and provide them with a written copy of the BMC sections. The officer will ensure the vehicle is moved. BMC 11C-8.1 - Parking or Placement on private property for purpose of sale. BMC 12-4(a) - Business tax payment required.
5. Officer enters FI into RIMS documenting the warning with the owner's personnel information and information on the vehicle that was for sale.
6. If the officer determines the owner has already received a warning the officer will issue a citation for the noted violations and ensure the car is moved. Further disobedience of the noted BMC sections will require the officer to cite the owner of the vehicle for each new violation.
7. In the event an owner is not verbally contacted, via the phone number left on the car, and the car is parked at the location over 2 hours, the officer may impound the vehicle under Vehicle Code § 22655.5 with Watch Commander approval. The officer will leave a message for the owner on an answering machine if available advising them that if their vehicle is not moved from the location within two hours it is subject to being towed and impounded.
8. An officer may also impound the vehicle at the Watch Commander's discretion if the owner was personally contacted by the officer but fails to respond to the location to remove the car within 2 hours.
9. The officer will complete a citation for the owner with as much information as possible and then attach the citation to the CHP 180 kept on file at the front window of the police department. When the owner arrives at the police department to remove the vehicle from impound the citation will be completed

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and issued by the releasing officer and submitted to records for processing along with the original officer's report.

425.2 PAPERWORK & EVIDENCE

A written report must be completed and submitted with each cite. The report shall include the words spoken in the phone call with the owner of the vehicle, copy of the citation, photo of the vehicle showing it was for sale at the location, DMV printout of the car, and DMV printout of the person cited. The reports will be filed through the Banning Court and a copy will be sent Attention to Banning City Attorney, c/o Burke, Williams & Sorensen, LLP, 611 West Sixth Street, Suite 2500, Los Angeles, CA 90017.

425.3 CITE DATES

Cite all offenders for this offense to the Banning Court on the third Thursday of the month. If you cite an offender within 10 days of the noted date then cite them to the third Thursday of the following month. The City Attorney will come into court and prosecute our cases.

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 Banning 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 Dispatch 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 City of Banning 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 police report or inter-office memo is required to document the officer's activity. The report or memo shall be forwarded to the officer's Division Lieutenant.

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 Banning 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 peacekeeping efforts, during the federal operation.

Members of this department should not participate in such federal operations as part of any detention team unless it is in direct response to a request for assistance on a temporary

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basis or 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.

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.

428.3.7 NOTIFICATION OF IMMIGRATION AND CUSTOMS ENFORCEMENT

Whenever an officer has reason to believe that any person arrested for any offense listed in Health & Safety Code §11369 or any other felony may not be a citizen of the United States and the individual is not going to be booked into county jail, the arresting officer shall cause ICE to be notified for consideration of an immigration hold.

If an officer has an articulable belief that an individual taken into custody for any misdemeanor is an undocumented alien, and after he/she is formally booked there is no intention to transport to the county jail, ICE may be informed by the arresting officer so that ICE may consider placing an immigration hold on the individual.

In making the determination whether to notify ICE in such circumstances, the officer should, in consultation with a supervisor, consider the totality of circumstances of each case, including, but not limited to:

- (a) Seriousness of the offense
- (b) Community safety
- (c) Potential burden on ICE
- (d) Impact on the immigrant community

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Generally, officers will not need to notify ICE when booking arrestees at the county jail. Immigration officials routinely interview suspected undocumented aliens who are booked into the county jail on criminal charges and notification will be handled according to jail operation procedures.

428.4 CONSIDERATIONS PRIOR TO REPORTING TO ICE

The Banning 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.

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.

Any request for assistance in applying for U-Visa/T-Visa status should be forwarded in a timely manner to the Detective Bureau sergeant assigned to supervise the handling of any related case. The Detective Bureau sergeant should do the following:

- (a) Consult with the assigned detective to determine the current status of any related case and whether further documentation is warranted.
- (b) Review the instructions for completing the declaration/certification if necessary. Instructions for completing Forms I-918/I-914 can be found on the U.S. DHS website.
- (c) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the declaration/certification has not already been completed and whether a declaration/certification is warranted.
- (d) Address the request and complete the declaration/certification, if appropriate, in a timely manner.
- (e) Ensure that any decision to complete or not complete the form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed declaration/certification in the case file.

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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).

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 Dispatch.

430.1.2 ELECTRICAL LINES

When a power line poses a hazard, an officer should be dispatched to protect against personal injury or property damage that might be caused by power lines. The City of Banning Electric Department should be promptly notified, as appropriate.

430.1.3 RESERVOIRS, PUMPS, WELLS, ETC.

The City of Banning Water Department maintains the city 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 Dispatch.

430.2 TRAFFIC SIGNAL MAINTENANCE

The City of Banning Street Department will furnish 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 Dispatch of the location and problem with the signal. The dispatcher should make the necessary notification to the proper maintenance agency.

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.

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,

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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 DISPATCH 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) Banning Fire Department
- (b) Banning Airport Manager
- (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 Patrol the manager of the affected airport

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.

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434.3 DOCUMENTATION

Any aircraft accident (crash) within the City, regardless of whether injuries or deaths occur, shall be documented.

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 Banning 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 two years of patrol experience preferred
- (c) Demonstrated ability as a positive role model
- (d) Participate and pass an internal oral interview selection process
- (e) Evaluation by supervisors and current FTO's
- (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 Field Training Officer Program supervisor will be selected from the rank of sergeant or above by the Chief of Police or his/her designee and shall possess a POST Supervisory Certificate.

The responsibilities of the FTO Program Supervisor include the following:

- (a) Assignment of trainees to FTOs.
- (b) Conduct FTO meetings.
- (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.

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- (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.

436.4 TRAINEE DEFINED

Any entry level or lateral police officer newly appointed to the Banning 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 Banning 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 Banning 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:

- (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.

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436.6.2 IMMEDIATE SUPERVISOR

The immediate supervisor shall review and approve the Daily Trainee Performance Evaluations and forward them to the Field Training Administrator.

436.6.3 FIELD TRAINING ADMINISTRATOR

The Field Training Administrator will review and approve the Daily Trainee Performance Evaluations submitted by the FTO through his/her immediate supervisor.

436.6.4 TRAINEE

At the completion of the Field Training Program, the trainee shall provide an oral evaluation on each of their FTO's and on the Field Training Program.

436.7 DOCUMENTATION

All documentation of the Field Training Program will be retained in the officer's training files and will consist of the following:

- (a) Daily Trainee Performance Evaluations
- (b) End of phase evaluations
- (c) A Certificate of Completion certifying that the trainee has successfully completed the required number of hours of field training

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 by the Watch Commander, any supervisor, or the Detective Sergeant to request helicopter assistance, the authorizing supervisor or his/her designee will call the Riverside or San Bernardino Sheriff Department depending on which agency may have the closest helicopter support available. The individual making the request 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.

Detentions and 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:

- (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.

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- (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 Banning 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.

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:

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- (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. When taking a consensual photograph, the officer should have the individual read and sign the appropriate form accompanying the photograph.

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 adequately labeled and submitted to the Watch Commander with either an associated FI card or other memorandum explaining the nature of the contact. If an individual is photographed as a suspect in a particular crime, the photograph should be submitted as an evidence item in the related case, following standard evidence procedures.

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If a photograph is not associated with an investigation where a case number has been issued, the Watch Commander should review and forward the photograph to one of the following locations:

- (a) If the photo and associated FI or memorandum is relevant to criminal street gang enforcement, the Watch Commander will forward the photo and documents to the Gang Supervisor. The Gang Supervisor will ensure the photograph and supporting documents are retained as prescribed by Policy § 442.
- (b) Photographs that do not qualify for Criminal Street Gang file retention or which are not evidence in an investigation with an assigned case number should be forwarded to the Records Bureau. These photographs will be purged as described in Policy § 440.7.1.

When a photograph is taken in association with a particular case, the detective may use such photograph in a photo lineup. Thereafter, the individual photograph should be retained as a part of the case file. All other photographs will be kept in the Records Bureau in a separate non-booking photograph file in alphabetical order.

440.7.1 PURGING THE FIELD PHOTO FILE

The Records Supervisor will be responsible for ensuring that photographs maintained by the Records Bureau 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 Banning Police Department and the booking file remains in the Records Bureau.

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.

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.

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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 Banning 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 Banning 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 FI was not obtained in accordance with established law or Banning 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 Banning 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.

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.

Criminal Street Gangs

442.1 PURPOSE AND SCOPE

It is the policy of this department to establish a procedure for identifying criminal street gangs, participants of criminal street gangs, and patterns of criminal activity as outlined in Penal Code § 186.20 through Penal Code § 186.33 of the "Street Terrorism Enforcement and Prevention Act."

The intent of this policy is to provide for the collection and management of criminal street gang information so as to enhance officer safety and the criminal prosecution of criminal street gang participants. This policy is not intended or designed to establish a formal gang intelligence database.

442.2 DEFINITIONS

Pattern of Criminal Gang Activity - The commission, attempted commission, conspiracy to commit, sustained juvenile petition for, or conviction of two or more of any offenses as described in Penal Code § 186.22(e).

Criminal Street Gang - Any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the criminal acts enumerated in Penal Code § 186.22(e), and which has a common name or common identifying sign or symbol, and whose members individually or collectively engage or have engaged in a pattern of criminal street gang activity.

Gang Related Crime - Any crime, which is committed for the benefit of, at the direction of, or in association with, a criminal street gang with the intent to promote, further or assist any criminal street gang.

442.3 IDENTIFICATION OF CRIMINAL STREET GANGS / PARTICIPANTS

The Gang Information Unit shall be authorized to collect information on individuals who are suspected of participating in a criminal street gang and groups that are suspected of being criminal street gangs.

- (a) A group of three or more individuals shall be designated a criminal street gang when:
 1. They have a common name or common identifying sign or symbol.
 2. There is evidence, substantiated by crime and informational reports, that a primary activity of the group is the commission of one or more criminal acts enumerated in Policy Manual § 442.2.
 3. One or more members individually or collectively have engaged in a pattern of criminal gang activity as defined in Policy Manual § 442.2 of this policy.
 4. A designated representative of the District Attorney's Office reviews the available evidence and concurs with a Department finding that the group meets the criteria for being a criminal street gang.
- (b) An individual shall be designated as a participant in a criminal street gang and included in a gang file, when one or more of the following elements have been verified by a Gang Information Unit member and a reasonable basis for believing such affiliation has been established and approved by a supervisor:

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1. An individual admits membership in a criminal street gang.
 2. A reliable informant or known gang member identifies an individual as a participant in a criminal street gang.
 3. An informant of previously untested reliability identifies an individual as a participant in a criminal street gang when that identification is corroborated by independent information.
 4. An individual resides in or frequents a particular criminal street gang's area, and affects their style of dress, color of dress, use of jewelry, tattoos, monikers, or any other identifiable mannerism associated to that particular criminal street gang, and where the officer documents reasonable suspicion that the individual is involved in criminal gang activity or enterprise.
 5. A person has been arrested in the company of identified criminal street gang members for offenses that are consistent with criminal street gang activity or criminal street gang related crimes.
 6. An individual is identified as a gang member in a criminal street gang document or the individual is depicted in a criminal street gang member's photograph(s) in such a manner as to clearly indicate membership in a criminal street gang.
 7. An individual otherwise meets the criteria of a criminal street gang participant under the guidelines of a department approved gang intelligence database and/or 28 C.F.R. 23.20.
- (c) An individual may be designated as a gang affiliate only when the individual is known to affiliate with active criminal gang members and an officer has established that there is reasonable suspicion that the individual is involved in criminal activity. An officer's belief must be premised upon reasoning and logic coupled with sound judgment based upon law enforcement experience, rather than a mere hunch or whim.

442.4 CRIMINAL STREET GANG TEMPORARY FILE

The Gang Unit Supervisor may maintain a temporary file of reports and FIs that is separate from any criminal gang intelligence database when an individual or group has been identified as a suspected criminal street gang participant or a suspected criminal street gang but does not meet the criteria necessary for entry into a criminal gang intelligence database.

Inclusion in a temporary file may be done only if there is a reasonable likelihood that, within one year of the contact, the individual or group will meet the criteria for entry into a department approved criminal gang intelligence database. Reports and FIs will only be included in a temporary gang file with the written authorization of the Gang Unit Supervisor. A temporary file of criminal street gang participants or criminal street gangs shall include:

- (a) Names, aliases, monikers, addresses, and other relevant identifying information.
- (b) Gang name.
- (c) Justification used to identify an individual as a criminal street gang participant.
- (d) Vehicle(s) known to be used.
- (e) Cross references to other identified gangs or gang members.

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442.4.1 REVIEW AND PURGING OF GANG PARTICIPANT FILE

Temporary files shall not be retained longer than one year. At the end of one year, temporary files must be purged if the information does not qualify for entry into a department approved criminal gang intelligence database.

The Gang Unit Supervisor shall periodically review temporary files to verify that the information was properly obtained and meets the criteria for retention. Validation and purging of temporary criminal street gang files is the responsibility of the Gang Unit Supervisor.

442.4.2 CRIMINAL GANG INTELLIGENCE DATABASES

While this policy does not establish a criminal gang intelligence database, the Chief of Police may approve one or more criminal gang intelligence databases, such as CALGANG, for use by members of the Gang Unit. Any such database should be compliant with 28 C.F.R. § 23.20 regulating criminal intelligence systems. Employees must obtain the requisite training before accessing any such database.

It is the Gang Unit Supervisor's responsibility to determine whether any report or FI contains information that would qualify for entry into a department approved criminal gang intelligence database. The Gang Unit Supervisor should forward any such reports or FIs to the Records Bureau after appropriate database entries are made. The submitting Gang Unit Supervisor should clearly mark the report/FI as Gang Intelligence Information.

It is the responsibility of the Records Bureau Supervisor to retain reports and FIs in compliance with the procedures of the department approved criminal gang intelligence database and 28 C.F.R. § 23.20. The Records Bureau Supervisor may not purge these reports or FIs without the approval of the Gang Unit Supervisor.

442.5 FIELD CONTACTS

Officers who contact individuals who are, or may be participants in criminal street gang activity should complete a FI card and document the reasonable suspicion underlying the contact and the exact circumstances leading to the suspicion that the individual is a criminal street gang participant (e.g., subject states he or she is a member of XYZ gang; XYZ tattoo on right hand near thumb; wearing ball cap with gang name printed in blue or red ink).

Photographing known or suspected criminal street gang participants shall be done in accordance with the provisions of Policy Manual § 440 (Photographing of Field Detainees).

442.6 INQUIRY BY PARENT OR GUARDIAN

When an inquiry is made by a parent or guardian as to whether a juvenile's name is in the temporary criminal street gang participant's file, such information shall be provided by the unit supervisor, unless there is good cause to believe that the release of such information may jeopardize an ongoing criminal investigation.

Employees must observe strict compliance with the rules of a department approved gang intelligence database regarding release of information from that database.

442.7 DISSEMINATIONS OF THE FILE INFORMATION

Information from the temporary criminal street gang participant files may only be furnished to Department personnel and other public law enforcement agencies on a need-to-know basis. This means information that may be of use in the prevention of gang-related criminal activity

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or information concerning the investigation of gang-related crimes shall only be released to members of this department and other law enforcement agencies.

Information from any department approved gang intelligence file must only be released in compliance with the rules for that particular database.

442.7.1 CAL GANG SYSTEM

The Cal-Gang System is a closed Intelligence file system. Access to this system is regulated by the Administrator's (San Bernardino County Sheriff's Department and California Department of Justice). Access to the system is designated to those assigned to Gang Investigations and officers that have received training on the system only.

Information obtained through the Cal-Gang System is to be used in accordance with the guidelines set forth by the Administrators. Under no circumstances is any information that is obtained from the system and/or any reference made about the system, to be included in any type of investigative report.

Any requests for information on the system, its contents and usage by this department is to be referred to San Bernardino County Sheriff's Department. All subpoenas and/or written requests from anyone other than a bona-fide Law Enforcement agency are not to be accepted and referred to the San Bernardino County Sheriff's Department.

442.8 REPORTING CRITERIA AND ROUTING

Incidents that appear to be criminal street gang related shall be documented on a report form and shall at minimum include the following:

- (a) A description of any document, statements, actions, dress or other information that would tend to support the officer's belief that the incident may be related to the activities of a criminal street gang.
- (b) Whether any photographs were taken and a brief description of what they depict.
- (c) What physical evidence, if any, was observed, collected or booked.
- (d) A specific request to that a copy of the report be routed to the Gang Unit.

Any photographs taken or evidence collected shall be booked in accordance with current evidence booking procedures.

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 Sergeant heads each watch.

444.2 DESIGNATION AS ACTING WATCH COMMANDER

When a Master Sergeant or Staff Sergeant is unavailable for duty as Watch Commander, a Junior Sergeant shall be designated as acting Watch Commander.

Mobile Audio Video Procedure

446.1 PURPOSE AND SCOPE

The Banning 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 Banning 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

Prior to going into service, each officer will ensure the unit's MAV is functioning properly and there is sufficient recording time available for the officer's activity during his/her shift. Officers shall test the MAV system by recording his/her name, union number and the current date and time at the start and again at the end of each shift. If the video portion of the system is malfunctioning, the officer shall take the vehicle out of service unless a supervisor requests the vehicle remain in service. If the audio portion of the system is not working properly, the officer shall equip themselves with a departmentally issued audio/digital recorder, per policy § 450.2, and shall use such device when the MAV system is recording.

446.4 ACTIVATION OF THE MAV

The MAV system is designed to turn on whenever the unit's emergency lights are activated. The system remains on until it is turned off manually. The audio portion is independently controlled and should be activated manually by the officer whenever appropriate. When audio is being recorded, the video will also record.

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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. Priority 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 Dispatch
- (c) Any call for service involving a crime where the recorder may aid in the apprehension and/or prosecution of a suspect:
 - 1. Domestic violence calls
 - 2. Disturbance of peace calls
 - 3. Offenses involving violence or weapons
- (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 incident has concluded. For purposes of this section, conclusion of an incident has occurred when all 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.

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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 Dispatch.

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 ensure that all relevant MAV recordings are handled in accordance with current evidence procedures for recorded media.

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.

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. When reasonably possible, a copy of the original media shall be used for viewing (unless otherwise directed by the courts) to preserve the original media.

Recordings may be reviewed in any of the following situations:

- (a) For use when preparing reports or statements
- (b) By a supervisor investigating a specific act of officer conduct
- (c) By a supervisor to assess officer performance
- (d) To assess proper functioning of MAV systems
- (e) By department investigators who are participating in an official investigation, such as a personnel complaint, administrative inquiry or a criminal investigation
- (f) By department personnel who request to review recordings
- (g) 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
- (h) By court personnel through proper process or with permission of the Chief of Police or the authorized designee
- (i) By the media through proper process or with permission of the Chief of Police or the authorized designee
- (j) To assess possible training value
- (k) Recordings may be shown for training purposes. If an involved officer objects to showing a recording, his/her objection will be submitted to the staff to determine if the training value outweighs the officer's objection

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Employees desiring to view any previously uploaded or archived MAV recording should submit a request in writing to the Watch Commander. Approved requests should be forwarded to the MAV technician for processing.

In no event shall any recording be used or shown for the purpose of ridiculing or embarrassing any employee.

446.6 DOCUMENTING MAV USE

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. If a citation is issued, the officer shall make a notation on the back of the records copy of the citation, indicating that the incident was recorded.

446.7 RECORDING MEDIA STORAGE AND INTEGRITY

Once submitted for storage, all recording media will be labeled and stored in a designated secure area. All recording media that is not booked as evidence will be retained for a minimum of one year after which time it will be erased, destroyed or recycled in accordance with the established records retention schedule (Government Code § 34090.6).

446.7.1 COPIES OF ORIGINAL RECORDING MEDIA

Original recording media shall not be used for any purpose other than for initial review by a supervisor. Upon proper request, a copy of the original recording media will be made for use as authorized in this policy.

Original recording media may only be released in response to a court order or upon approval by the Chief of Police or the authorized designee. In the event that an original recording is released to a court, a copy shall be made and placed in storage until the original is returned.

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 Banning 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 should be configured to minimally record for 30 seconds prior to an event.
- (c) The MAV system may not be configured to record audio data occurring prior to activation.
- (d) Unless the transmitters being used are designed for synchronized use, only one transmitter, usually the primary initiating officer's transmitter, should be activated at a scene to minimize interference or noise from other MAV transmitters.
- (e) Officers using digital transmitters that are synchronized to their individual MAV shall activate both audio and video recordings when responding in a support capacity. This is to obtain additional perspectives of the incident scene.
- (f) With the exception of law enforcement radios or other emergency equipment, other electronic devices should not be used inside MAV-equipped law enforcement vehicles

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to minimize the possibility of causing electronic or noise interference with the MAV system.

- (g) 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.
- (h) To prevent damage, original recordings shall not be viewed on any equipment other than the equipment issued or authorized by the MAV technician.

446.9 MAV TECHNICIAN RESPONSIBILITIES

The MAV technician is responsible for:

- (a) Ordering, issuing, retrieving, storing, erasing and duplicating of all recorded media.
- (b) Collecting all completed media for oversight and verification of wireless downloaded media. Once collected, the MAV technician:
 - 1. Ensures it is stored in a secure location with authorized controlled access.
 - 2. Makes the appropriate entries in the chain of custody log.
- (c) Erasing of media:
 - 1. Pursuant to a court order.
 - 2. In accordance with established records retention policies, including reissuing all other media deemed to be of no evidentiary value.
- (d) Assigning all media an identification number prior to issuance to the field:
 - 1. Maintaining a record of issued media.
- (e) Ensuring that an adequate supply of recording media is available.
- (f) Managing the long-term storage of media that has been deemed to be of evidentiary value in accordance with the department evidence storage protocols and the records retention schedule.

Mobile Data Terminal Use

448.1 PURPOSE AND SCOPE

The Mobile Data Terminal (MDT) accesses confidential records from the State of California, Department of Justice and Department of Motor Vehicles databases. Employees using the MDT shall comply with all appropriate federal and state rules and regulations.

448.2 MDT USE

The MDT 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. MDT 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 MDT unless otherwise authorized by the Watch Commander.

448.2.1 USE WHILE DRIVING

Use of the MDT 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

MDT'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 MDT.

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 MDT 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.

Other changes in status may be entered by depressing the appropriate keys on the MDT's.

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448.2.4 EMERGENCY ACTIVATION OF MDT

If the emergency button is depressed on the MDT, the dispatcher will call the unit and ask if Code- 4. If there is no emergency, then he/she should answer "Code-4" and all units will resume their normal activity. If there is no response or the officer answers in some other way, the dispatcher shall proceed as follows:

- (a) If the unit is not on a call, send available units to assist in locating the unit transmitting the emergency. Whenever a location is known, immediately dispatch the nearest available unit Code-3.
- (b) Notify the field sergeant and Watch Commander of the incident without delay.

Units not responding to the emergency shall refrain from transmitting on the radio until there is a Code-4, unless they are themselves handling an emergency.

448.3 MDT CONSIDERATIONS

448.3.1 NON-FUNCTIONING MDT

Whenever possible, officers will not use units with malfunctioning MDT's. Whenever officers must drive a unit in which the MDT is not working, they shall notify Dispatch. It shall be responsibility of Dispatch to record all information that will then be transmitted verbally over the police radio.

448.3.2 BOMB CALLS

When investigating reports of possible bombs, officers will turn off their MDT's. Operating the MDT 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 Banning 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.

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

Prior to going into service, each uniformed member will be responsible for making sure that he/she is equipped with a portable recorder, issued by the Department, and that the recorder is in good working order. Uniformed members should wear the recorder in a conspicuous manner.

Any member assigned to a non-uniformed position may carry an approved portable recorder at any time the member believes that such a device may be useful.

When using a recorder, the assigned member shall record his/her name, employee number and the current date and time at the beginning and the end of the shift or other period of use, regardless of whether any activity was recorded. This procedure is not required when the recording device and related software captures the user's unique identification and the date and time of each recording.

450.4.1 NON-CRIMINAL MATTERS

At any time that an officer reasonably believes that a recorded contact may be of benefit in a non-criminal matter (e.g. a hostile contact, etc.), the officer may place the entire recording into evidence for safekeeping.

- (a) Under such circumstances, the officer shall notify a supervisor of the existence of the recording as soon as practicable.
- (b) Recording which have been placed into safekeeping shall be retained for a period of no less than 180 days or until the related matter has been closed (e.g. internal investigation, civil litigation, etc.).

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- (c) Once any cassette tape or digital recorder has been filled, the officer shall place the entire cassette tape or comparable storage device into evidence for safekeeping where it shall be retained for a period of no less than 180 days unless utilized in a specific case.

450.5 ACTIVATION OF THE AUDIO RECORDER

Members should activate the recorder during all enforcement stops and field interrogation situations and any other 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.

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.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Watch Commander. 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.

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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.

450.7.1 RETENTION REQUIREMENTS

All recordings shall be retained for a period consistent with the requirements of the organization's records retention schedule but in no event for a period less than 180 days.

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.

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 reviewing the member'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) By media personnel with permission of the Chief of Police or the authorized designee.
- (d) In compliance with a public records request, if permitted, and in accordance with the Release of Records and Information Policy.

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).

452.2 POLICY

It is the policy of the Banning 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.

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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 Banning 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 does not possess marijuana 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.

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.

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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.
- (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

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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).

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 EVIDENCE ROOM SUPERVISOR RESPONSIBILITIES

The Evidence Room 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 Evidence Room Supervisor is not responsible for caring for live marijuana plants.

Upon the prosecutor's decision to forgo prosecution, or the dismissal of charges or an acquittal, the Evidence Room 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 Evidence Room Supervisor may release marijuana to federal law enforcement authorities upon presentation of a valid court order or by a written order of the Detective Bureau Supervisor.

Foot Pursuit Policy

458.1 PURPOSE AND SCOPE

Foot pursuits are inherently dangerous and require common sense, sound tactics and heightened officer safety awareness. This policy sets forth guidelines to assist officers in making the decision to initiate or continue the pursuit of suspects on foot by balancing the objective of apprehending the suspect with the risk of potential injury to the officer, the public or the suspect.

458.1.1 POLICY

It is the policy of this department when deciding to initiate or continue a foot pursuit that officers must continuously balance the objective of apprehending the suspect with the risk and potential for injury to department personnel, the public or the suspect.

Officers are expected to act reasonably, based on the totality of the circumstances. Absent exigent circumstances, the safety of department personnel and the public should be the primary consideration when determining whether a foot pursuit should be initiated or continued. Officers must be mindful that immediate apprehension of a suspect is rarely more important than the safety of the public and department personnel.

458.2 DECISION TO PURSUE

Officers may be justified in initiating a foot pursuit of any individual the officer reasonably believes is about to engage in, is engaging in or has engaged in criminal activity. The decision to initiate or continue such a foot pursuit, however, must be continuously re-evaluated in light of the circumstances presented at the time.

Mere flight by a person who is not suspected of criminal activity shall not serve as the sole justification for engaging in an extended foot pursuit without the development of reasonable suspicion regarding the individual's involvement in criminal activity.

Deciding to initiate or continue a foot pursuit is a decision that an officer must make quickly and under unpredictable and dynamic circumstances. It is recognized that foot pursuits potentially place department personnel and the public at significant risk. Therefore, no officer or supervisor shall be criticized or disciplined for deciding not to engage in a foot pursuit because of the perceived risk involved.

If circumstances permit, surveillance and containment are generally the safest tactics for apprehending fleeing persons. In deciding whether to initiate or continue a foot pursuit, an officer should continuously consider reasonable alternatives to pursuit based upon the circumstances and resources available, such as the following:

- (a) Containment of the area.
- (b) Canine search.
- (c) Saturation of the area with patrol personnel.
- (d) Aerial support.
- (e) Apprehension at another time when the identity of the suspect is known or there is information available that would likely allow for later apprehension, and the need to

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immediately apprehend the suspect does not reasonably appear to outweigh the risk of continuing the pursuit.

458.3 GUIDELINES FOR FOOT PURSUIT

Unless the officer reasonably believes that exigent circumstances exist (e.g. a serious threat to the safety of personnel or members of the public), officers should consider alternatives to engaging in or continuing a foot pursuit under the following conditions:

- (a) When directed by a supervisor to terminate the foot pursuit. Such an order shall be considered mandatory
- (b) When the officer is acting alone.
- (c) When two or more officers become separated, lose visual contact with one another, or obstacles separate them to the degree that they cannot immediately assist each other should a confrontation take place. In such circumstances, it is generally recommended that a single officer keep the suspect in sight from a safe distance and coordinate the containment effort.
- (d) The officer is unsure of his/her location and direction of travel.
- (e) When pursuing multiple suspects and the pursuing officers do not reasonably believe that they would be able to control the suspect should a confrontation occur.
- (f) When the physical condition of the officers renders them incapable of controlling the suspect if apprehended.
- (g) When the officer loses radio contact with Dispatch or with backup officers.
- (h) When the suspect enters a building, structure, confined space or a wooded or otherwise isolated area and there are insufficient officers to provide backup and containment. The primary officer should consider discontinuing the pursuit and coordinating containment pending the arrival of sufficient officers.
- (i) The officer becomes aware of unanticipated or unforeseen circumstances that unreasonably increase the risk to officers or the public.
- (j) The officer reasonably believes that the danger to the pursuing officers or public outweighs the objective of immediate apprehension.
- (k) The officer loses possession of his/her firearm or other essential equipment.
- (l) The officer or a third party is injured during the pursuit, requiring immediate assistance, and there are no other emergency personnel available to render assistance.
- (m) The suspect's location is no longer definitely known.
- (n) The identity of the suspect is established or other information exists that will allow for the suspect's apprehension at a later time, and it reasonably appears that there is no immediate threat to department personnel or the public if the suspect is not immediately apprehended.
- (o) The officer's ability to safely continue the pursuit is impaired by inclement weather, darkness or other conditions.

458.4 RESPONSIBILITIES IN FOOT PURSUITS

458.4.1 INITIATING OFFICER RESPONSIBILITIES

Unless relieved by another officer or a supervisor, the initiating officer shall be responsible for coordinating the progress of the pursuit. When acting alone and when practicable, the initiating officer should not attempt to overtake and confront the suspect but should attempt

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to keep the suspect in sight until sufficient officers are present to safely apprehend the suspect.

Early communication of available information from the involved officers is essential so that adequate resources can be coordinated and deployed to bring a foot pursuit to a safe conclusion. Officers initiating a foot pursuit should broadcast the following information as soon as it becomes practicable and available:

- (a) Unit identifier
- (b) Location and direction of travel
- (c) Reason for the foot pursuit
- (d) Number of suspects and description
- (e) Whether the suspect is known or believed to be armed

Officers should be mindful that radio transmissions made while running may be difficult to understand and may need to be repeated.

Absent extenuating circumstances, any officer unable to promptly and effectively broadcast this information should terminate the pursuit. If the foot pursuit is discontinued for any reason, immediate efforts for containment should be established and alternatives considered based upon the circumstances and available resources.

When a foot pursuit terminates, the officer will notify Dispatch of his/her location and the status of the pursuit termination (e.g., suspect in custody, lost sight of suspect), and will direct further actions as reasonably appear necessary.

458.4.2 ASSISTING OFFICER RESPONSIBILITIES

Whenever any officer announces that he/she is engaged in a foot pursuit, all other officers should minimize non-essential radio traffic to permit the involved officers maximum access to the radio frequency.

Any officer who is in a position to intercept a fleeing suspect or who can assist the primary officer with the apprehension of the suspect, shall act reasonably and in accordance with department policy, based upon available information and his/her own observations.

458.4.3 SUPERVISOR RESPONSIBILITY

Upon becoming aware of a foot pursuit, the supervisor shall make every reasonable effort to ascertain sufficient information to direct responding resources and to take command, control and coordination of the foot pursuit. The supervisor should respond to the area whenever possible; the supervisor does not, however, need not be physically present to exercise control over the pursuit. The supervisor shall continuously assess the situation in order to ensure the foot pursuit is conducted within established department guidelines.

The supervisor shall terminate the foot pursuit when the danger to pursuing officers or the public appears to unreasonably outweigh the objective of immediate apprehension of the suspect.

Upon apprehension of the suspect, the supervisor shall promptly proceed to the termination point to direct the post-pursuit activity.

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458.4.4 DISPATCH RESPONSIBILITIES

Upon being notified or becoming aware that a foot pursuit is in progress, communication personnel shall, as soon as practicable, notify the field supervisor and provide available information. Dispatch personnel are also responsible for the following:

- (a) Clear the radio channel of non-emergency traffic.
- (b) Repeat the transmissions of the pursuing officer as needed.
- (c) Relay all pertinent information to responding personnel.
- (d) Contact additional resources as directed by a supervisor.
- (e) Coordinate response of additional resources to assist with the foot pursuit.

458.5 REPORTING

The initiating officer shall complete the appropriate crime/arrest reports documenting, at minimum, the following:

- (a) The reason for initiating the foot pursuit.
- (b) The identity of involved personnel.
- (c) The course and approximate distance of the pursuit.
- (d) Whether a suspect was apprehended as well as the means and methods used.
 - 1. Any use of force shall be reported and documented in compliance with the Department Use of Force Policy.
- (e) Any injuries or property damage.

Assisting officers taking an active role in the apprehension of the suspect shall complete supplemental reports as necessary or as directed.

In any case in which a suspect is not apprehended and there is insufficient information to warrant further investigation, a supervisor may authorize that the initiating officer need not complete a formal report.

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Chapter 5 - Traffic Operations

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 Banning 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:

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.

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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

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.

Traffic Collision Reporting

502.1 PURPOSE AND SCOPE

The Banning 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 Supervisor designated to oversee Traffic Officers will be known as the Traffic Supervisor and will be responsible for distribution of the CIM manual. That supervisor will receive all changes in the State Manual and ensure conformity with this policy.

502.3 TRAFFIC COLLISION REPORTING

All Traffic Collision Reports taken by members of the Banning Police Department shall be forwarded to the Traffic Supervisor for approval and data entry into the Banning Police Department Records Management System. The Traffic Supervisor will be responsible for monthly and quarterly reports on traffic collision statistics to be forwarded to the Field Operations Division Lieutenant, or other persons as required.

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 Lieutenant.

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 Banning Police Department, resulting in major property damage, a serious injury or fatality, the Traffic Sergeant or the Watch Commander, shall request the California Highway Patrol to conduct the investigation.

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 Sergeant or on-duty Watch Commander shall request the California Highway Patrol to investigate any traffic collision involving any City official or employee where major property damage, a serious injury, or fatality has occurred.

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502.4.4 TRAFFIC COLLISIONS ON PRIVATE PROPERTY

In compliance with the Collision Investigation Manual, traffic collision reports shall not be taken for traffic collisions occurring on private property unless there is a death or injury to any person involved, a hit-and-run violation, or Vehicle Code violation. An Incident Report may be taken at the discretion of any supervisor.

502.4.5 TRAFFIC COLLISION INVESTIGATIONS ON ROADWAYS OR HIGHWAYS

(a) COLLISION INVESTIGATION: A collision shall be documented as an "investigation" when one or more of the following conditions apply (To Complete CHP 555, refer to CIM Chapter 7, Instructions for Completing the CHP 556, Narrative/Supplemental, Page 7-3, Investigation Narrative):

1. A motor vehicle traffic collision results in the death of a person on or off a highway.
2. A motor vehicle traffic collision results in personal injury. (Refer CIM to paragraph 8, Collision Report for exceptions.)
3. All collisions resulting in an in-custody arrest for a violation of Vehicle Code §§ 2800.1, 20002, or 23152.
4. The collision is the result of an identifiable violation and prosecution will be sought. To support the prosecution, statements, collection of evidence, and a detailed analysis of the collision is required to prove the section violated. When the offense to be prosecuted is not collision related, such as possession or storage of an open container of alcoholic beverage, the requirement for an INVESTIGATION should be based upon the needs of the prosecuting attorney.
5. An involved party is in violation of the hit-and-run provisions of Vehicle Code § 20002, on or off the highway, and sufficient information is available to identify the hit-and-run driver through follow-up. For example:
6. A witness to the collision records the license plate number of the Hit-and-run vehicle and can identify the driver.
7. Witnesses provide a description of the hit-and-run vehicle and sufficient physical evidence (vehicle parts, personal property, etc.) is available for later identification of the vehicle and driver at the time of the collision.

(b) COLLISION REPORT: A collision may be documented as a REPORT (refer to CIM to complete CHP555 and Chapter 7 pg. 7-7 for collision report narrative instructions) when one or more of the following conditions apply:

1. A collision in which the only injury or injuries involve a "Complaint of Pain" claim provided the party exhibits no visible physical injuries, refuses medical treatment at the scene, and is not transported to a medical facility.
 - (a) The Supervisor or officer(s) on scene should recognize situations where a "Complaint of Pain" injury may involve authentic internal or other non-visible injuries. Careful consideration of all factors (e.g., vehicle damage, physical evidence, mechanism of injury, fraud, potential for serious non-visible injury, etc.) associated with the collision shall be made prior to documenting the collision in the REPORT format.
2. A collision involves damage to private property and the driver is unable to notify the property owner in compliance with VC Section 20002, but notifies this Department without unnecessary delay.

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3. A collision involves property damage only and the officer witnesses the violation causing the collision and issues a citation at the scene of a property damage only collision.
 4. A collision involves a late-reported injury. (Refer to CIM Chapter 2, Definitions and Classifications of Collisions, Page 2-8, Late-Reported Collision.)
 5. An involved party is in violation of hit and run provisions of Vehicle Code § 20002, on or off the highway and there is insufficient information available to identify the driver through follow-up.
 6. A collision involves damage to city property or private property where sufficient structural damage to any building is present.
- (c) **NON- INJURY COLLISIONS:** In the event the collision is non-injury, the officers will assist the drivers in exchanging information. The officers should check the license status, registration and insurance information of both parties involved.

502.5 NOTIFICATION OF FIELD OPERATIONS DIVISION COMMANDER

In the event of a serious injury or death related traffic collision, the Watch Commander shall notify the Field Operations Division Lieutenant to relate the circumstances of the traffic collision. The Watch Commander or any supervisor may assign a Collision Investigator or motor officer to investigate the traffic collision.

Vehicle Towing Policy

510.1 PURPOSE AND SCOPE

This policy provides the procedures for towing a vehicle by or at the direction of the Banning 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 be given to the tow truck operator and the original shall be submitted to the Records Bureau 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 Dispatch.

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 Banning. 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 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.

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- 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.

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.

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.

The dispatcher 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).

510.2.7 RECORDS BUREAU RESPONSIBILITY

Within 48 hours, excluding weekends and holidays, of the storage of any such vehicle it shall be the responsibility of the Records Bureau 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.

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- (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.

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.

510.3 TOWING SERVICES

The City of Banning periodically selects firms to act as official tow services and awards a contract to those firms. These firms 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.

510.3.1 "NO PREFERENCE" TOW SERVICES

The Police Department will assist citizens by calling any towing company desired. If the citizen has no preference and requests that an officer call a towing company, one of the authorized firms shall be called in the rotation.

All officers are specifically prohibited from directly or indirectly soliciting for or recommending any garage or tow service.

510.4 VEHICLE INVENTORY

All property in a stored or impounded vehicle shall be inventoried and listed on the vehicle storage form. 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.

510.4.1 30 DAY IMPOUNDS

When an officer makes an arrest for driving on a suspended license and the driver's suspension meets the criteria as set forth in Vehicle Code § 14602.6, the Officer should impound the vehicle for 30 days pursuant to Vehicle Code § 14602.6. The vehicle's registered owner will be entitled to a hearing as set forth in Vehicle Code § 22852.

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

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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.

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.

Vehicle Impound Hearings

512.1 PURPOSE AND SCOPE

This policy establishes guidelines for the review of 30-day impound hearings in an efficient and timely manner.

512.2 STORED OR IMPOUND HEARING

When a vehicle is stored or impounded by any member of the Banning 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)).

Appointments will be made for a day and time determined by the Division Lieutenant.

The on-duty Watch Commander will conduct all scheduled post-storage impound hearings and the appropriate documentation will be completed. If the on-duty Watch Commander is unavailable during the time of a scheduled appointment, it will be the responsibility of the Watch Commander to make appropriate arrangements to cover the appointment.

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)). A Sergeant will generally serve as the hearing officer. The person requesting the hearing may record the hearing at his/her own expense.

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

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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 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 shall advise the inquiring party of the decision and that the inquiring party may pursue further civil remedies if desired.
 - 1. 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.
- (b) 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)).
- (c) 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 Commander. The hearing officer will recommend to the appropriate Division Commander that the fees paid by the registered or legal owner of the vehicle in question or their agent be reimbursed by the Department.

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 Banning 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.

514.2.1 E-PAS

- (a) Only officers that have been provided training as required under Title 17 section 1221.4 (a) (3) will be allowed to operate the E-PAS.
- (b) One E-PAS will be kept in the station. It will be located in the evidence room next to the CAL-ID fingerprinting computer. That E-PAS will be kept in the station for the purpose of conducting DUI breath test at this facility. The only time this E-PAS will be placed in the field is with the approval of the Chief of Police, the Operations Commander or the Traffic Supervisor. Examples of placement in the field would include a DUI checkpoint or DUI sweep.
- (c) Other E-PAS devices will be stored in the evidence room and left in the charging mode unless it is to be used in the field by patrol officers. There is instruction/checklist sheet in the box of this E-PAS that will guide the officer through the test process.
- (d) The E-PAS is required to be calibrated every ten days as provided by law. The E-PAS will be calibrated on every Tuesday. The Evidence Technician or his/her designee will conduct the weekly calibrations providing they have received the training. Personnel who have not been trained as a coordinator (personnel that received additional training by DOJ) will not conduct any accuracy checks on the E-PAS.
- (e) Officers will not use their own DL or conduct tests at random with these because all information is logged at DOJ Sacramento and the District Attorneys Office. The information will then indicate that the test subject was stopped and contacted for DUI.
- (f) Personnel using the E-PAS will only use the E-PAS card that was provided to them. Personnel will not use another officer's card.
- (g) When an officer makes an arrest for DUI and uses the E-PAS, that officer will enter the printouts into evidence.
- (h) If an officer notices a malfunction or is having problems with the E-PAS, notify the Evidence Technician or the Traffic Supervisor.

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.

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514.4 FIELD TESTS

The Traffic Sergeant 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.

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 Sergeant 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 Sergeant.

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)).

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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.

514.6 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; 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. A Supervisor shall be present whenever blood is forcibly extracted from a person who is uncooperative and has refused a chemical test.

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

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to such a sample without physical resistance. This dialogue should be recorded on audio and/or video if practicable.

- (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.

514.6.3 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. A supervisor shall be present whenever blood is forcibly extracted from a person who is uncooperative and has refused a chemical test.

The responding supervisor should:

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- (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.
- (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.

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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 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):

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Impaired Driving and Evidence Collection

- (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.

514.8 RECORDS BUREAU RESPONSIBILITIES

The Records Supervisor 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.

Any officers who receive notice of required attendance to an administrative license suspension hearing should promptly notify the prosecuting attorney.

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 Records Bureau should forward this to the prosecuting attorney as part of the case file.

Traffic/Non-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.

516.1.1 NON-TRAFFIC CITATIONS

All non-traffic related citations will be administered in the same manner as traffic citations under this policy.

516.2 RESPONSIBILITIES

The Field Operations Division Lieutenant shall be responsible for the development and design of all Department traffic citations in compliance with state law and the Judicial Council.

The Administrative Secretary shall be responsible for the supply and accounting of all traffic citations issued to employees of the Police Department.

516.3 DISMISSAL OF TRAFFIC CITATIONS

An officer may determine that a traffic citation should be dismissed during a court proceeding in the interest of justice or where prosecution is deemed inappropriate. In such cases, the officer may request that the court dismiss the citation. Upon dismissal of the traffic citation by the court, a memorandum describing the circumstances and a copy of the citation shall then be forwarded to the Field Operations Division Lieutenant for review.

516.3.1 CITATIONS ISSUED WITHOUT PROOF OF IDENTIFICATION

If an officer issues a citation and the driver cannot provide a driver's license or some other form of valid picture identification, the officer shall obtain a thumb print on the back of the citation to avoid a violation of Penal Code § 529.

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 signed by the violator. The citation and copies shall then be forwarded to the Records Bureau for filing.

No employee shall void a traffic citation after it has been signed by the violator without the expressed permission of the Chief of Police or his/her designee.

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 the Records Bureau. The Records Bureau shall prepare a letter of correction to the court having jurisdiction and to the recipient of the citation.

516.6 DISPOSITION OF TRAFFIC CITATIONS

The court and file copies of all traffic citations issued by members of the Police Department shall be forwarded to the Records Bureau.

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Upon separation from employment with the Police Department, all employees issued traffic citations books shall return any unused citations to the Administration.

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 the Turbo Data Systems, Inc who will review written/documentary data. Requests for administrative reviews are available at the front desk or from the Watch Commander. 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 § 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.

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- (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

Completion of traffic citation forms for juveniles may vary slightly from the procedure for adults. The juvenile's age, place of residency, and the type of offense should be considered before issuing the juvenile a citation.

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.

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 City of Banning City Ordinance regulating 72-hour parking violations and abandoned vehicles under the authority of Vehicle Code §§ 22652.6 and 22669.

524.2 MARKING VEHICLES

Vehicles suspected of being in violation of the City of Banning 72-Hour Parking Ordinance shall be marked and noted on the Banning Police Department "Violation Notice" (form P.D. 88). No case number is required at this time.

A written notice of 72-hour parking violation should be placed on the vehicle. Any deviation in this notice shall be noted on the Violation Notice.

If a marked vehicle has been moved or the markings have been removed during a 72-hour investigation period, the vehicle shall be re-marked for the 72-hour parking violation and a new Violation Notice shall be completed.

Parking Citations for the 72-Hour Parking Ordinance shall be not issued when the vehicle is stored for the 72-hour parking violation.

524.2.1 MARKED VEHICLE FILE

The Traffic Bureau shall be responsible for maintaining a file for all Marked Vehicle Cards.

The Traffic Bureau shall be responsible for assigning the follow up investigation of all 72-hour parking violations noted on the Marked Vehicle Cards.

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 Records Bureau immediately following the storage of the vehicle. It shall be the responsibility of the Records Bureau 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 Records Bureau to determine the names and addresses of any 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).

Employee Involved Traffic Collisions

525.1 PURPOSE AND SCOPE

To ensure accurate documentation and review of all occurrences resulting in personal injury or damage to Police Department owned or leased police vehicles.

525.2 COLLISION DEFINITION:

Criteria for determining whether or not a collision has occurred should primarily include the location of the occurrence and the presence of injuries. All substantiated collisions, as defined in the CHP Collision Report Manual, shall necessitate the completion of a traffic collision investigation in compliance with Departmental policy and the CHP Collision Report Manual. A miscellaneous report of collision or damage circumstances shall be required in all cases of personal injury or damage to City property when a collision is not substantiated, (e.g., non injury or private property). In all instances, an Incident Report will be completed.

Documentation of all collisions and damage to police vehicles shall be the responsibility of involved personnel, assigned investigator; and Watch Commander/Supervisor. Initiation of the investigation or report process will reside with the involved party. All reports must be completed in accordance with the following guidelines:

525.3 TRAFFIC COLLISION INVOLVING A CITY VEHICLE

525.3.1 DEFINITIONS

- (a) A police vehicle is any Police Department owned or leased vehicle driven by or under the control of any Police Department employee.
- (b) A collision is an unintended event that produces damage or injury. The words "collision" and "accident" are synonymous.

525.3.2 COMPLETE INVESTIGATION REQUIRED

A collision report is required for collisions occurring if on:

- (a) Roadway, street, highway or alley.
- (b) Public Property.
- (c) Private property with injury.

525.3.3 MISCELLANEOUS REPORT REQUIRED

A miscellaneous report is required for collisions occurring if:

- (a) They are a non-injury collision on private property.
- (b) Anytime a vehicle sustains repairable damage, a collision investigation is not required. This includes:
 - 1. Objects thrown at a unit.
 - 2. Unseen objects or holes struck.
 - 3. Legal intervention.
 - 4. Assault with a deadly weapon on a police department employee in a City vehicle.

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5. The intentional ramming of an unoccupied vehicle while being used on police business.

525.3.4 FORMAT

- (a) Investigation required.
 1. Completion of CHP 555 form.
 2. Scene diagram.
- (b) Miscellaneous report required (memorandum).
 1. Detailed statement of circumstances.
 2. Report to be completed by the involved officer and reviewed by the Watch Commander.
- (c) Following approval, all collision Investigations and vehicle damage reports along with a completed Incident Report shall be referred to:
 1. The Division Commander.
 2. Records (original police report with copy of incident)

525.3.5 INVESTIGATION RESPONSIBILITY

When a City owned or leased vehicle is involved in a traffic collision, the involved employee shall promptly notify a supervisor. A traffic collision report shall be filed with the agency having jurisdiction.

For collisions within the City of Banning:

- (a) Non-Injury or Minor Damage Collisions - Non-injury or minor property damage collisions involving Police Department vehicles within the City should be investigated by the Banning Police Department.
 1. Should the Watch Commander/Supervisor determine that there is a necessity for another jurisdiction to investigate the incident, he/she may request the California Highway Patrol or a neighboring police jurisdiction to conduct the investigation.
- (b) Injury or Major Damage.
 1. Injury or major property damage collisions involving Police Department vehicles within the City should be investigated by the California Highway Patrol or a neighboring police agency.
- (c) For collisions in jurisdictions outside the City of Banning:
 1. When a Police Department vehicle is involved in a collision in a jurisdiction other than the City of Banning, the agency responsible for that jurisdiction should be requested to take the collision report. An officer designated by the Watch Commander/Supervisor should be dispatched to the scene to monitor the investigation, assist as needed, and prepare any additional reports necessary. If the involved jurisdiction declines or is unable to take the collision report, it should be prepared as indicated in § 525.35 (b) 1.
- (d) Collisions involving a private passenger vehicle operated by an employee, when the vehicle use is at the request or direction of a supervisor and is in the performance of the employee's duties, shall be a liability of the Banning Police Department, not

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the vehicle owner. Consideration should be given to an outside agency handling the collision investigation report (Insurance Code § 488.5). The employee involved in the collision shall complete the City's vehicle collision form. If the employee is incapable, 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 shift sergeant. An administrative investigation will be conducted to determine if there is any vehicle abuse or misuse. If it is determined that misuse or abuse was a result of negligent conduct or operation, appropriate disciplinary action may result.

525.3.6 COLLISION REVIEW

A review of all collisions involving Police Department vehicles will be conducted by the appropriate Division Lieutenant.

- (a) Responsibilities - Review all collisions involving City vehicles and Department personnel.
1. Review miscellaneous reports where there has been extensive property damage.
 2. Report case findings to the Chief of Police.
 3. Report finding and recommendations to the Chief of Police regarding deficiencies with policies, procedures and/or training concerning the safe and proper use of City vehicles.
 4. Maintain a file of all cases reviewed and dispositions.
 5. When a collision is determined to be preventable, the involved driver may be subject to disciplinary action pursuant to Department policy. The amount and type of discipline will vary according to the circumstances of the collision and degree of negligence involved.

Repossessions

527.1 PURPOSE AND SCOPE

It is the policy of the Banning Police Department to establish the responsibility of the police officer's role as a keeper of the peace while persons are engaged in the business of repossessing personal property.

Although the traditional practice of police departments, has been to regard repossession conflicts as civil only, very often such disputes involve a misdemeanor or felony violation of the Penal Code or result in some type of violence. It is important, therefore, for police officers to be aware of both the practical and legal issues involved in a repossession dispute in order to prevent these conflicts from escalating into violent confrontations. An officer who understands the basic civil and criminal law in this area can be effective in mediating disputes without the occurrence of violence or the necessity for arrests.

527.1.1 OBJECTIVE

- (a) The officer's objective, when confronted with a typical repossession dispute, is not to make an arrest but try to achieve a solution to the conflict by explaining to each party what conduct is or is not lawful.
- (b) The officer will not assist, under any circumstances, in the repossession of personal property by the reposessor.
- (c) A repossession has occurred only when the reposessor has taken control of the property.
- (d) Property that has already been repossessed, legally or illegally, prior to the officer's arrival becomes a civil matter between the consumer and the parties involved in the repossession.

527.2 VIOLATIONS

The officer must also be aware of the occurrence of violations of the Penal Code prior to his/her arrival which have resulted from actions of a reposessor while repossessing property. If the officer's investigation determines that a crime has occurred, a crime report shall be completed and an arrest is lawful if that crime warrants an arrest to be made at the scene or continuing investigation.

Requests for Re-examination of Drivers

528.1 PURPOSE AND SCOPE

The purpose of this order is to establish guidelines for requesting reexamination of drivers that appear to be physically or mentally incapable of safely operating a motor vehicle.

528.2 POLICY

An officer detecting a person who appears to be incompetent, physically or mentally disabled or suffers from disease or other conditions that prevent him/her from exercising reasonable and ordinary care over a motor vehicle will complete the appropriate forms to request a reexamination by the Department of Motor Vehicles.

528.3 DEPARTMENT OF MOTOR VEHICLE REQUIREMENTS

Officers shall comply with the guidelines as outlined in §§ 21061 and 21062 of the Vehicle Code as it applies for submission of reexamination requests.

528.4 RE-EXAMINATION NOTICES

Re-examination notices shall be legible and submitted on DMV Form 412. The form shall be transmitted to the Department of Motor Vehicles before the end of the next working day pursuant to Vehicle Code § 21062.

Use of Speed Measuring Devices

529.1 PURPOSE AND SCOPE

The purpose of this order is to establish guidelines for the operation of the Department's speed enforcement measuring devices.

529.2 POLICY

The Department will utilize radar/Lidar in high or potentially high accident locations when speed is a factor; in areas where speed limit violations are prevalent; in response to citizen complaints concerning speeding motorists; and to conduct traffic volume and speed percentile studies and radar street surveys.

Radar and/or any other electromechanical speed measuring devices must be deployed with the safety of the officer in mind at all times.

529.3 USE OF RADAR

All officers utilizing radar must successfully complete the basic operator training program and receive certification prior to utilizing departmental speed measuring devices.

529.3.1 RADAR UNIT OPERATION

The following procedures shall be followed:

- (a) The radar unit must be properly installed and connected to the appropriate power supply.
- (b) The effective range of the particular unit must be thoroughly understood by the operator so visual observations can support the speed meter readings.
- (c) The radar location will be conducive to the effective and safe operation of the radar.
- (d) The radar unit will be properly calibrated to insure accuracy in checking speed prior to use at each location. The calibration will be confirmed.
- (e) All radar units will comply with all local, state and federal regulations.
- (f) All radar units utilized by the Department shall meet or exceed the specifications of the National Highway Safety Administration.
- (g) Any radar unit found to be malfunctioning shall be removed from service immediately, and a repair slip filled out on the unit. The unit will be forwarded to the Division Commander.
- (h) Radar will only be used on highways and streets that have been surveyed pursuant to Vehicle Code § 40802, within the last five years, and whose prima facie speed limit has been supported by an engineering or traffic survey.
- (i) Radar can be used on local streets or roads that provide primary access to abutting residential property if they meet the following criteria (Refer § 40802 (b) Vehicle Code):
 1. Roadway width of not more than 40 feet.
 2. Not more than one-half mile of uninterrupted length. Interruption shall include official traffic control devices as defined in § 445.
 3. Not more than one traffic lane in each direction.

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Use of Speed Measuring Devices

- (j) Radar enforcement during late night and early morning hours is discouraged but may be used in high accident locations where speed is a factor.
- (k) All officers are cautioned not to place the standard radar gun at any time in their lap, or rest it between their legs.

529.4 PROCEDURES FOR CHECKING EQUIPMENT IN AND OUT

To prevent any problems concerning lost or damaged equipment, the Traffic Bureau shall maintain control over the radar guns. The following guidelines shall be adhered to:

- (a) Officers using the radar units will sign the equipment in-and-out in the "Equipment Sign-out Log."
- (b) Radar units will not be left in the units. The equipment shall be checked in by the end of each watch.
- (c) Missing or damaged equipment shall be immediately reported to a supervisor.

Community Release of Persons Arrested for Driving Under the Influence

530.1 PURPOSE AND SCOPE

To establish procedures for the community release, in lieu of booking at a jail facility, persons arrested for operating a motor vehicle while under the influence of alcohol.

530.2 POLICY

The Department will implement a program of "Community Release" of persons arrested for Driving Under the Influence of Alcohol (D.U.I.) who meet the specific criteria as outlined in this general order.

The release of the arrestee shall be at the discretion of the arresting officer or a supervisor.

530.3 COMMUNITY RELEASE PROCEDURES

A person arrested for operating a motor vehicle while under the influence of alcohol may be released on his/her written promise to appear in Court if the following criteria is met.

- (a) The person is properly identified and has proof of residency in the area.
- (b) The person is not so intoxicated that he/she could be a danger to himself or others.
- (c) The person's Blood Alcohol Level is .10 or lower, as measured by the Intoxilyzer.
- (d) The person completes a written waiver supplied by this Department.
- (e) The person signs a written promise to appear in Court.
- (f) The person is cooperative during the arrest procedures.
- (g) The person agrees to be placed into the custody of a responsible adult who is able to respond to the Banning Police Department within 45 minutes from the time of the intoxilyzer test.

530.4 OFFICER RESPONSIBILITIES

- (a) The arresting officer shall not offer or mention the community release option to the arrested person prior to the completion of all tests and is satisfied that the person is able to make a competent decision regarding his/her responsibilities.
- (b) The person arrested shall be photographed and fingerprinted in accordance with the normal booking process. This will be done at the Banning Police Department.

Handicapped Placards

531.1 PURPOSE AND SCOPE

To establish a procedure for enforcement of Handicapped Placard misuse.

531.2 POLICY

It shall be the policy of the Banning Police Department to enforce § 22507.8(a) of the Vehicle Code, handicapped parking only.

531.3 VEHICLE CODE § 22511.5

A disabled person can park their vehicle for unlimited periods of time in any time restricted zone as long as the parked vehicle displays a disabled person placard on its dashboard. Those disabled person placards displayed on a vehicle dashboard which exhibits any of the following characteristics is possibly fraudulent:

- (a) Obvious Xerox copy of a legally issued placard.
- (b) Different number sequence and letter series than observed on placards of the same color.
- (c) Items on the dashboard partially covering the number and letter series on the placard.
- (d) Any observed placard which appears abnormal to the officer.

531.4 OFFICER RESPONSIBILITY

- (a) Whenever a fraudulent disabled parking placard is encountered, the officer should:
 1. Establish ownership of the vehicle and placard via DMV check.
- (b) If the operator of the vehicle is present, the vehicle is not locked, and the placard is fraudulent or misused:
 1. Seize the placard and give the operator a receipt. (A note on the citation is sufficient).
 2. Cite the operator § 4463(c) Vehicle Code.
 3. Write an incident report.
 4. Book the placard into evidence.
- (c) If the operator is not present, vehicle is not locked, and the placard is fraudulent:
 1. Seize the placard and leave a receipt. (A business card with a case number, placard number and the fact that the placard was seized).
 2. Write an incident report.
 3. Cite the owner of the vehicle § 4463 (c) Vehicle Code.
 4. Attach the parking citation to the incident report.
 5. Book the placard into evidence.
- (d) If the operator is not present, vehicle is locked, and placard is fraudulent:
 1. DO NOT open the vehicle.
 2. Photograph the placard - while on the dashboard

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3. Write an incident report.
4. Cite the owner of the vehicle § 4463 (c) Vehicle Code
5. Attach the parking citation to the incident report.

531.5 UNABLE TO ESTABLISH OWNERSHIP

If an officer is unable to establish ownership of the vehicle, cite the vehicle for violating § 22507.8 (a) or (b) Vehicle Code or any other applicable Vehicle Code section.

Vehicle Over the Side and T/C Involved Vehicles Found Unoccupied

532.1 PURPOSE AND SCOPE

The purpose of this General Order is to set guidelines that ensures a systematic and thorough search is conducted when officers are assigned to handle incidents involving vehicles reported over the side and vehicles involved in traffic accidents where the occupants can not be immediately located.

532.2 FIELD OFFICERS

- (a) Field Officers receiving a call of a vehicle over the side or a vehicle involved in a T/C where the occupants can not be immediately located shall respond to the area it was reported and conduct a systematic and thorough search. The officer assigned to the incident shall ensure the following procedures are followed:
1. Responding officers should consider the need to respond additional resources
 2. Fire Department
 3. Ambulance
 4. Other BPD Officers
 5. BPD Administrative Staff
 6. Allied Agencies (I.E. Police, Sheriff, CHP)
 7. Aircraft
- (b) While responding to the scene, the responding officer should attempt to gain as much information as possible as to the circumstances of the call. Information that should be requested and considered should include, but is not limited to:
1. What is the exact location where the incident occurred?
 2. Are there any specific landmarks that could assist responding persons in locating the incident?
 3. Who is the reporting person (Name, address, phone numbers).
 4. Is the reporting person familiar with the area?
 5. What is the vehicle description?
 6. Did the vehicle hit anything prior to leaving the roadway, which would have left physical evidence on the roadway?
- (c) Once in the area where the incident was reported, responding officers shall conduct a systematic and thorough search of the entire area. The search shall include exiting the patrol vehicle and physically checking over the side at locations where there is any possibility the vehicle may have left the roadway. When unoccupied vehicles involved in T/C's are located, officers shall exit the patrol vehicle and search the area on foot to locate occupants that may have been ejected from the vehicle or who may have crawled or walked away from the collision scene.
1. If the vehicle or occupants are not located, the officer assigned the call shall personally attempt to contact the reporting person for further details. If feasible, the officer should also request that the reporting person meet them, in the area

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of the call, to clarify the location and events. If the Reporting Party cannot be located the attempt to contact shall be recorded on the incident log in RIMS.

2. The Officer shall also attempt to contact the Registered Owner of the vehicle. If the Registered Owner cannot be located that attempt to contact shall be recorded on the incident log in RIMS.
- (d) In the areas where extremely rough terrain will hamper search efforts, the responding officer should immediately consider requesting Allied Agency Air Support.
 - (e) Once all responding agencies are satisfied that all available means have been exhausted to locate the vehicle and its occupants, the search may be terminated with the authorization of the officer's immediate supervisor.
 - (f) The officer, who was initially assigned to the incident, is responsible and shall ensure that thorough notes are taken and documented in RIMS as to the steps taken to locate the vehicle and/or the occupant(s).

532.3 SHIFT SUPERVISOR

The shift supervisor shall ensure that a systematic search was made for the vehicle and/or the occupant(s). The supervisor shall have the sole authority to terminate the search. If the vehicle and/or the occupants are not located, the shift supervisor shall complete a briefing item for the purpose of disseminating the information regarding the event to all personnel and notate it in the W/C log for administration review.

Bicycle Licensing

533.1 PURPOSE AND SCOPE

The purpose of this General Order is to set guidelines for the licensing of bicycles.

533.2 GENERAL

- (a) The Chief of Police or his/her designee shall have the authority and responsibility to establish and maintain procedures for the Bicycling Licensing Program. The procedures shall conform to § 39000 et seq. of the Vehicle Code.
- (b) The licensing of bicycles can be performed by the following:
 - 1. Volunteers in Police Service (VIPS)
 - 2. Community Service Officer
 - 3. Any other person so designated

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Chapter 6 - Investigation Operations

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 Lieutenant 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 Detective Bureau 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.

Criminal Investigations

601.1 PURPOSE AND SCOPE

The policy of the Banning Police Department is to conduct thorough investigations of criminal activities with the following objectives:

- (a) Arrest and prosecution of offenders,
- (b) Recovery of stolen property; and
- (c) Seizure of contraband.

601.1.1 CRIMINAL INVESTIGATION OBJECTIVES

These objectives are to be achieved through coordinated efforts of patrol officers and detectives.

- (a) Patrol officers are responsible for the entire investigation of all misdemeanor crimes (with certain exceptions relating to vice investigations), and of those felony crimes not specifically assigned to the Detective Unit.
- (b) Patrol officers are responsible for the preliminary investigation of felony crimes for which the Detective Unit has final responsibility.
- (c) The Detective Unit has responsibility for the follow-up investigation specified misdemeanor and felony offenses, and for the entire investigation of specified offenses.

601.2 CRIMINAL INVESTIGATION DEFINITIONS

601.2.1 PRELIMINARY INVESTIGATION

A preliminary investigation consists of those activities of the first officer(s) involved in a freshly reported or detected crime. The objective of a preliminary investigation is to obtain all evidence and information that is immediately available from the crime scene and from those present and/or involved. A preliminary investigation consists of the following:

- (a) Interview of victim(s);
- (b) Interview of witness(es) present;
- (c) Collection and preservation of all physical evidence present at the scene or available from victim(s) and/or witness(es) (including medical-legal examination in appropriate cases);
- (d) A check of the neighborhood or area surrounding the crime scene for witnesses and interview(s) of any witnesses found;
- (e) Interview and interrogation of suspect(s) and arrest of suspect(s), if possible;
- (f) Entry of identifiable stolen property into appropriate computer files; and
- (g) Preparation of reports documenting all investigative steps (including those yielding no information) and all information known to the investigating officer(s).

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601.2.2 FOLLOW-UP INVESTIGATION

A follow-up investigation consists of those activities, undertaken at some time following completion of the preliminary investigation, intended to solve the reported crime. Follow-up investigation may consist of the following:

- (a) Re-interview of victim(s) and/or suspect(s);
- (b) Scientific examination or analysis of physical evidence;
- (c) Preparation of composites or artists drawings of suspects;
- (d) Teletyping of suspect, crime and M.O. information to other law enforcement agencies;
- (e) Review of crime information from other agencies for similar offenses and/or suspect information;
- (f) Identification, location and interview of previously-unknown persons who may have information relevant to the crime;
- (g) Consult with experts in appropriate fields to obtain information, specific leads, or avenues of investigation;
- (h) Confer with other components of the criminal justice systems for possible suspect information (e.g., Parole, Probation, State Prison);
- (i) Coordinate multi-jurisdictional investigations with other agencies;
- (j) Suspect interview; or
- (k) Other investigative steps.

601.2.3 COMPLETE INVESTIGATION

A complete investigation is an investigation wherein all preliminary contacts/interviews, collection of evidence and all reasonable follow-ups appropriate to the particular case, has been done or attempted. Where all reasonable leads, and/or information has been reviewed, and exhausted in the furtherance of solving or attempting to solve a crime and where all information obtained from such investigation leads to the closure of case either by criminal filing with the District Attorney's Office or by insufficient evidence for prosecution.

601.2.4 CASE SCREENING

Case screening is a process by which crime reports are reviewed by a supervisor to assess the probability of solution, given a reasonable investigative effort. Certain factors and conditions have been identified which, if present, are likely to yield important information. The reviewing supervisor should consider the existence of one or more of these solvability when deciding whether or not to assign a case for follow-up investigation. The factors may be considered by the reviewing supervisor include:

- (a) Suspect named;
- (b) Suspect's location;
- (c) Suspect's description;
- (d) Suspect vehicle;
- (e) Traceable stolen property;
- (f) Physical evidence;
- (g) Seriousness of the crime;
- (h) Political impact;
- (i) Community reaction;

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- (j) Other similar crimes (is the current crime part of a series or trend?); and
- (k) Workload of available personnel.

601.2.5 MAJOR INVESTIGATIONS

Major investigations include:

- (a) Homicides;
- (b) Deaths in which the cause or manner of death is not readily apparent;
- (c) Cases in which a police officer or elected official is a suspect;
- (d) Assaults on police officers resulting in major or life-threatening injuries to the officer;
- (e) Missing children cases in which the child is less than 5 years old when circumstances indicate the necessity of an immediate investigation; and
- (f) Other cases which, by virtue of their importance, complexity, political significance or other factors require immediate investigation by specialists with resources not readily available to patrol officers.

601.3 INVESTIGATIVE RESPONSIBILITIES

- (a) Patrol officers are responsible for the entire investigation of the following crimes:
 - 1. All misdemeanors (except as noted herein); and
 - 2. Those felony crimes not specifically the responsibility of the Detective Unit.
- (b) Patrol officers are responsible for the preliminary investigation of the following crimes:
 - 1. Misdemeanor crimes and misdemeanor sex crimes; and
 - 2. Felony crimes for which responsibility for follow-up investigation is assigned, by policy, to the Detective Unit.
- (c) Detectives are responsible for the entire investigation of the following crime:
 - 1. Major crimes as defined in § 601.25.
- (d) Detectives are responsible for the follow-up investigation of the following crimes and attempted crimes:
 - 1. Misdemeanor sex crimes;
 - 2. Felony crimes against persons (including Penal Code § 487.2; but excluding robberies of bicycles, skateboards or similar property between juvenile victim(s) and suspect(s) in which no injuries occur and in which no shots are fired);
 - 3. Commercial burglaries;
 - 4. School burglaries;
 - 5. Residential burglaries in which the loss exceeds \$1,000;
 - 6. Arsons, bombs, and destructive devices;
 - 7. Auto thefts;
 - 8. Vice cases;
 - 9. Other felony or misdemeanor investigations requiring follow-up investigation outside the immediate Banning area; and
 - 10. Other unusual or complicated cases beyond the expertise of available patrol personnel (with the approval of the Division Lieutenant).

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- (e) When a major crime (as defined in this general order) is reported or detected, the following shall occur:
 - 1. The first officer(s) on the scene shall protect the crime scene, locate and identify witnesses, and take all other necessary steps to ensure that evidence, information, or potential witnesses are not lost prior to the assumption of control of the investigation by the Detective Unit;
 - 2. The on-duty supervisor or on-call supervisor shall respond to the scene and ensure that the procedures noted above are completed. He/she shall direct the responding officers and summon necessary additional" resources;
 - 3. The supervisor shall make available the resources (as practical) necessary to comply with Section E.1. He/she shall notify the Detective Unit of the incident at the earliest possible time; and
 - 4. At the earliest possible time, the detective assigned shall cause a press release to be issued, giving all information available by law, except any information likely to jeopardize or interfere with the investigation. Press releases regarding major crimes shall be issued only by the Chief of Police or his/her designee.
- (f) Investigation of drug or narcotic sales cases will be referred to the Department's Narcotics Coordinator.

601.4 SUPERVISOR RESPONSIBILITIES

- (a) A supervisor is responsible for the supervision of preliminary investigations conducted by patrol officers. They shall ensure that preliminary investigations are complete and thorough as specified in this general order. They shall provide advice, technical assistance, and expertise when requested or necessary. They shall ensure that the provisions of this general order relative to major crime investigations are followed.
- (b) Supervisors are responsible for managing criminal investigations of patrol officers assigned to their shift. They shall review the status of case investigations assigned to patrol officers, and ensure that assigned investigations are either suspended or closed in an appropriate time period.
- (c) The Detective Sergeant is responsible for reviewing all crime reports of incidents in which the responsibility for follow-up investigation rests with the Detective Unit. He shall conduct case screening and assignment. He shall review the status of case investigations assigned to detectives, and ensure that assigned investigations are either inactivated or closed in an appropriate time period. He shall provide advice, technical assistance, and expertise when requested or necessary.

601.5 NOTIFICATION OF DETECTIVES

- (a) The Detective Unit shall be notified as soon as any of the following crimes are found (or strongly suspected) to have occurred:
 - 1. Major crimes;
 - 2. In death investigations resulting in the call-in of detectives, the coroner notification will be made by the detective assigned to this investigation.
 - 3. Felony sex crimes occurring within the past 24 hours;
 - 4. Robberies in which shots were fired, or the victim sustained other than minor injuries;
 - 5. Robberies of financial institutions;
 - 6. Robberies in which the loss exceeds \$2,000;

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7. Kidnappings in which the victim has not been recovered;
 8. Child stealing in which the suspect has a record of assaulting or molesting the victim child;
 9. Assaults in which the victim sustains a potentially life-threatening Injury; and
 10. Other significant crimes requiring immediate investigative efforts beyond the available resources of the patrol forces on duty.
- (b) With the exception of major crimes (which require immediate detective response), the decision of whether detectives shall immediately respond and conduct (or assist in) the preliminary investigation rests with a supervisor. The supervisor should consider the following factors:
1. Seriousness of case;
 2. Detective availability and workload;
 3. Need for immediate follow-up;
 4. Patrol workload on involved shift;
 5. Expertise of assigned patrol officer; and
 6. Preference of the Supervisor.

601.5.1 PROCEDURE FOR NOTIFICATION OF DETECTIVES

- (a) Contact and obtain approval of the Detective Sergeant. If the Detective Sergeant is not available, contact and obtain approval from the Division Lieutenant in the chain of command.
- (b) Notification should be made by a Supervisor.
- (c) Upon being notified, the Detective Sergeant shall notify the Division Lieutenant.

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 the 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)).
 1. Prior to any such examination the assigned officer shall ensure that the victim has been properly informed of his/her 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 his/her presence would be detrimental to the purpose of the examination (Penal Code § 264.2(b)(4)).

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).

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- (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.
- (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.

Asset Forfeiture Policy

606.1 PURPOSE AND SCOPE

This policy describes the authority and procedure for the seizure and liquidation of assets associated with specified controlled substances. This policy applies to forfeited or seized assets in the form of currency, real estate, automobiles, boats, aircraft, or any other items of value.

606.2 ASSET SEIZURE AUTHORITY

Health & Safety Code § 11470 provides for the forfeiture of any currency, and real and/or personal property, which represents proceeds or was used to facilitate narcotic activity in violation of the Health & Safety Code. The offense(s) must involve the manufacturing, distribution, transportation for sale, sales, possession for sale, offer for sale, offer to manufacture, or the conspiracy to commit certain Health & Safety Code violations.

Health & Safety Code § 11488(a) specifies that any peace officer having probable cause, may seize all moneys, negotiable instruments, securities, vehicles, boats, airplanes or other things of value which are forfeitable pursuant to Health & Safety Code § 11470 (e) or (f).

606.3 ASSET FORFEITURE PROCEDURE

Before seizing any currency, vehicle or personal property pursuant to Health & Safety Code § 11470, a patrol officer should contact a narcotics detective. The following guidelines will be observed:

- (a) The seizing officer or the detective will serve all persons with Notice of Seizure and Intended Forfeiture forms which includes an attached County of Origin Claim form Opposing Forfeiture, and a forfeiture receipt. Disclaimers (English/Spanish) will be completed on all persons disclaiming ownership of currency, vehicle or property seized.
- (b) When someone has made notification other than the Asset Forfeiture detective, a copy of all reports and all applicable asset forfeiture paperwork must be forwarded to the Asset Forfeiture detective in the Investigation Bureau, for review.
- (c) Interview all persons involved concerning their possession of the seized assets, financial situation, employment, income and other resources. The interviewing officer shall ensure that *Miranda* warnings are given and waivers obtained before interviewing any person who is in custody.
- (d) Attempt to promptly determine all lien holders or all persons who may have a legal interest in the seized currency, vehicle or property for further contact, investigation and notification.
- (e) The seizure of assets subject to forfeiture is a civil proceeding filed through the county of origin, Office of the District Attorney Forfeiture Unit or Narcotic Enforcement Team.

606.3.1 SEIZED PROPERTY

Property seized subject to forfeiture will be inventoried and booked into evidence. The property will be checked through the Automated Property System to determine if the property has been stolen.

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The property will be booked 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.

606.3.2 SEIZED CURRENCY

Currency seized subject to forfeiture will be counted by the seizing officer and a supervisor. The currency will be placed in a money envelope with the denomination of the currency, totals of each denomination and total amount of currency enclosed noted on the money envelope. The officer counting and supervisor verifying money will initial and sign the envelope when sealed. If the currency will not fit into a standard money envelope, place the currency in a larger envelope or bag, sealing and affixing a completed money envelope to the outside of the larger envelope or bag which contains the currency.

Currency seized will be given to and retained by a supervisor, for deposit into the Banning Police Department Litigation Trust Fund. If there is a need to book the currency into evidence/property, the currency will be booked on a single property form notating "subject to asset forfeiture" in the comments section of the property form. The seizing officer shall notify the Patrol Division Lieutenant of the booked currency and the circumstances of the seizure as soon as possible.

606.3.3 SEIZED VEHICLES

Vehicles seized subject to forfeiture will be taken to a designated secure storage facility. A seized vehicle should not be impounded. The officer seizing the vehicle shall notify the Detective Bureau Supervisor of the seizure of the vehicle and circumstances of the seizure as soon as possible.

If the vehicle cannot be driven, a tow truck will be used to tow the vehicle to the storage facility.

Personal property located in a seized vehicle shall be removed and booked into Property as either evidence or for safekeeping.

606.4 ASSET FORFEITURE LOG

A computerized inventory of all asset forfeiture cases shall be kept in the Detective Bureau. The inventory shall be maintained by the Detective Sergeant and shall include the following:

- Case number
- Date of seizure
- Value
- Type of seizure (federal or state)
- Status of the seizure

Information maintained on the log will be provided to the Chief of Police or authorized staff, as requested.

606.5 PROCEEDS FROM FORFEITURE

Equitable shares received from seized assets shall be maintained in separate funds and shall be subject to accounting controls and annual financial audits.

Confidential Informants

608.1 PURPOSE AND SCOPE

In many instances, a successful investigation cannot be conducted without the use of confidential informants. To protect the integrity of the Banning Police Department and the officers using informants, it shall be the policy of this department to take appropriate precautions by developing sound informant policies.

608.2 INFORMANT FILE SYSTEM

The Detective Bureau Supervisor or his/her designee shall be responsible for maintaining informant files. A separate file shall be maintained on each confidential informant.

608.2.1 FILE SYSTEM PROCEDURE

Each file shall be coded with an assigned informant control number. An informant history shall be prepared to correspond to each informant file and include the following information:

- (a) Informant's name and/or aliases
- (b) Date of birth
- (c) Physical description: height, weight, hair color, eye color, race, sex, scars, tattoos or other distinguishing features
- (d) Current home address and telephone numbers
- (e) Current employer(s), position, address(es) and telephone numbers
- (f) Vehicles owned and registration information
- (g) Places frequented
- (h) Informant's photograph
- (i) Briefs of information provided by the informant and his or her subsequent reliability. If an informant is determined to be unreliable, the informant's file is marked as "Unreliable"
- (j) Name of officer initiating use of the informant
- (k) Signed informant agreement
- (l) Update on active or inactive status of informant
- (m) Background check through CII, Wants/Warrants, and L.A. Clearhouse.
- (n) Approval from Probation/Parole.

The informant files shall be maintained in a secure area within the Detective Bureau. These files shall be used to provide a source of background information about the informant; enable review and evaluation of information given by the informant; and, minimize incidents that could be used to question the integrity of detectives or the reliability of the confidential informant.

Access to the informant files shall be restricted to the Chief of Police, Division Lieutenant, the Detective Bureau Unit, or their designees.

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608.3 USE OF INFORMANTS

Before using an individual as a confidential informant, an officer must receive approval from the Investigation Bureau Supervisor. The officer shall compile sufficient information through a background investigation in order to determine the reliability, credibility and suitability, of the individual, including age, maturity and risk of physical harm.

608.3.1 JUVENILE INFORMANTS

The use of juvenile informants under the age of 13-years is prohibited. Except as provided for in the enforcement of the Tobacco Enforcement Act, Business & Professions Code §§ 22950, et seq., the use of any juvenile informant between the ages of 13 and 18-years is only authorized by court order obtained pursuant to Penal Code § 701.5.

For purposes of this policy, a "juvenile informant" means any juvenile who participates, on behalf of this department, in a prearranged transaction or series of prearranged transactions with direct face-to-face contact with any party, when the juvenile's participation in the transaction is for the purpose of obtaining or attempting to obtain evidence of illegal activity by a third party and where the juvenile is participating in the transaction for the purpose of reducing or dismissing a pending juvenile petition against the juvenile.

608.4 GUIDELINES FOR HANDLING CONFIDENTIAL INFORMANTS

All confidential informants are required to sign and abide by the provisions of the departmental Informant Agreement. The officer using the confidential informant shall discuss each of the provisions of the agreement with the confidential informant.

Details of the agreement are to be approved in writing by the unit supervisor before being finalized with the confidential informant.

608.4.1 RELATIONSHIPS WITH CONFIDENTIAL INFORMANTS

No member of the Banning Police Department shall knowingly maintain a social relationship with a confidential informant while off duty, or otherwise become intimately involved with a confidential informant. Members of the Banning Police Department shall neither solicit nor accept gratuities nor engage in any private business transaction with a confidential informant.

To maintain officer/informant integrity, the following must be adhered to:

- (a) Officers shall not withhold the identity of an informant from their superiors
- (b) Identities of informants shall otherwise be kept confidential
- (c) Criminal activity by informants shall not be condoned
- (d) Informants shall be told they are not acting as police officers, employees or agents of the Banning Police Department, and that they shall not represent themselves as such
- (e) The relationship between officers and informants shall always be ethical and professional
- (f) Social contact shall be avoided unless necessary to conduct an official investigation, and only with prior approval of the Detective Bureau's Supervisor
- (g) Officers shall not meet with informants in a private place unless accompanied by at least one additional officer or with prior approval of the Detective Bureau Supervisor. When contacting informants for the purpose of making payments officers shall arrange for the presence of another officer, whenever possible, or with prior approval of the Detective Bureau Supervisor

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- (h) In all instances when department funds are paid to informants, a voucher shall be completed in advance, itemizing the expenses

608.5 NARCOTICS INFORMANT PAYMENT PROCEDURES

The potential payment of large sums of money to any confidential informant must be done in a manner respecting public opinion and scrutiny. Additionally, to maintain a good accounting of such funds requires a strict procedure for disbursements.

608.5.1 PAYMENT PROCEDURE

The amount of funds to be paid to any confidential informant will be evaluated against the following criteria:

- The extent of the informant's personal involvement in the case.
- The significance, value or effect on crime.
- The amount of assets seized.
- The quantity of the drugs seized.
- The informant's previous criminal activity.
- The level of risk taken by the informant.

The Investigation Bureau Supervisor will discuss the above factors with the Patrol Division Lieutenant and arrive at a recommended level of payment that will be subject to the approval of the Chief of Police. The amount of payment will be based on a percentage of the current market price for the drugs or other contraband being sought, not to exceed 15-percent.

608.5.2 CASH DISBURSEMENT POLICY

The following establishes a cash disbursement policy for confidential informants. No informant will be told in advance or given an exact amount or percentage for services rendered.

- (a) When both assets and drugs have been seized, the confidential informant shall receive payment based upon overall value and the purchase price of the drugs seized not to exceed a maximum of \$150,000.
- (b) A confidential informant may receive a cash amount for each quantity of drugs seized whether or not assets are also seized, not to exceed a maximum of \$30,000.

608.5.3 PAYMENT PROCESS

A check shall be requested, payable to the case agent. The BPD case number shall be recorded justifying the payment. The Chief of Police signature is required for disbursements over \$200.00. Payments under \$200.00 may be paid in cash out of the Detective Bureau Buy/Expense Fund. The Detective Bureau Supervisor will be required to sign the voucher for amounts under \$500.00.

To complete the transaction with the confidential informant the case agent shall have the C/I initial the cash transfer form. The confidential informant will sign the form indicating the amount received, the date, and that the C/I is receiving funds in payment for information voluntarily rendered in the case. The Banning Police Department case number shall be recorded on the cash transfer form. The form will be kept in the confidential informant's file.

Each confidential informant receiving a cash payment shall be informed of his or her responsibility to report the cash to the Internal Revenue Service as income.

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608.5.4 REPORTING OF PAYMENTS

Each confidential informant receiving a cash payment shall be informed of his/her responsibility to report the cash to the Internal Revenue Service (IRS) as income. If funds distributed exceed \$600 in any reporting year, the confidential informant should be provided IRS Form 1099 (26 CFR § 1.6041-1). If such documentation or reporting may reveal the identity of the confidential informant and by doing so jeopardize any investigation, the safety of peace officers or the safety of the confidential informant (26 CFR § 1.6041-3), then IRS Form 1099 should not be issued.

In such cases, the confidential informant shall be provided a letter identifying the amount he/she must report on a tax return as other income and shall be required to provide a signed acknowledgement of receipt of the letter. The completed acknowledgement form and a copy of the letter shall be retained in the confidential informant's file.

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.

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

The Investigation supervisor shall be responsible for the development and maintenance of an eyewitness identification process for use by members when they are conducting eyewitness identifications.

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.

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- (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. Witnesses should be instructed to avoid discussing details of the incident or of the identification process with 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 PHOTOGRAPHIC LINEUP AND LIVE LINEUP CONSIDERATIONS

When practicable, the person composing the lineup and the person presenting the lineup should not be directly involved in the investigation of the case. When this is not possible, the member presenting the lineup must take the utmost care not to communicate the identity of the suspect in any way.

When practicable, the employee presenting a lineup to a witness should not know which photograph or person is the suspect.

Other persons or photos used in any lineup should bear similar characteristics to the suspect to avoid causing him/her to unreasonably stand out. In cases involving multiple suspects, a separate lineup should be conducted for each suspect. The suspects should be placed in a different order within each lineup.

The employee presenting the lineup to a witness should do so sequentially and not simultaneously (i.e., show the witness one person at a time). The witness should view all persons in the lineup.

The order of the suspect or the photos and fillers should be randomized before being presented to each witness.

A live lineup should only be used before criminal proceedings have been initiated against the suspect. If there is any question as to whether any criminal proceedings have begun, the investigating officer should contact the appropriate prosecuting attorney before proceeding.

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610.5.2 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. A field elimination or show-up identification should not be used when independent probable cause exists to arrest a suspect. In such cases a live or photo lineup is the preferred course of action if eyewitness identification is contemplated.

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:
 - 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.
- (h) If a witness positively identifies an individual as the perpetrator, officers should not conduct any further field identifications with other witnesses for that suspect. In such instances officers should document the contact information for any additional witnesses for follow up, if necessary.

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.

***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 Banning Police Department that is both favorable and material to the current prosecution or defense of a criminal defendant.

612.2 POLICY

The Banning 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 Banning 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.

Supervisors who are uncertain about whether evidence or facts are material should address the issue in a written memo to an appropriate prosecutor. A copy of the memo should be retained in the Department case file.

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:

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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.

612.5 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.

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Chapter 7 - Equipment

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 in a written memorandum. This memorandum 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 Lieutenant, 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 recommended by the Chief of Police who will then forward the claim to the Finance Department.

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.

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Department Owned and Personal Property

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, whether in or outside the jurisdiction of the City of Banning, 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.

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 Lieutenant.

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 Banning Police Department allows employees to utilize department-issued PCDs and to possess personally owned PCDs in the workplace, subject to certain limitations. Any PCD used while on-duty, or used off-duty in any manner reasonably related to the business of the Department, will be subject to monitoring and inspection consistent with the standards set forth in this policy.

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.

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.

In accordance with this policy, supervisors are authorized to conduct a limited administrative search of electronic files without prior notice, consent or a search warrant, on department-issued PCDs. Administrative searches can take place for work-related purposes that may be unrelated to investigations of employee misconduct and, as practicable, will be done in the presence of the affected employee. All such searches shall be fully documented in a written report.

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Personal Communication Devices

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 and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause.

Unless an employee is expressly authorized by the Chief of Police, authorized designee, or MOU for off-duty use of the PCD, the PCD will either be secured in the workplace at the completion of the tour of duty or will be turned off when leaving the workplace.

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 shall not be utilized to record or disclose any business-related information, including photographs, video or the recording or transmittal of any information or material obtained or made accessible as a result of employment with the Department, without the express authorization of the Chief of Police or the authorized designee.

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) A PCD shall not be carried in a manner that allows it to be visible while in uniform, unless it is in an approved carrier.
- (b) All PCDs in the workplace shall be set to silent or vibrate mode when handling calls for service in the field.
- (c) 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). Employees shall endeavor to limit their use of PCDs to authorized break times, unless an emergency exists.
- (d) 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.
- (e) 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.
- (f) Employees will not access social networking sites for any purpose that is not official department business.

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Personal Communication Devices

- (g) 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 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

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. A copy of the repair request shall be forwarded to the employee's Division Lieutenant or his/her designee.

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

Officers 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:

- One case of emergency road flares
- One stick of yellow crayon/chalk or marking spray paint can
- One roll barricade "Police Line-Do Not Cross" tape
- One First Aid Kit
- One Fire Extinguisher
- Protective equipment per § 1016

Officers shall also inspect the patrol vehicle to ensure the oil level is appropriate for the vehicle's operation and the vehicle's mileage has not exceeded the recommended service mileage found on the "Service Due" sticker from city yards.

704.3.2 UNMARKED VEHICLES

An employee driving unmarked department vehicles shall ensure that the minimum following equipment is present in the vehicle

- One First Aid Kit
- Protective Equipment § 1016

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.

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Vehicle Maintenance

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 obtain clearance from the Dispatcher before responding to the car wash or having a trustee wash their police vehicle. 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 NON-SWORN EMPLOYEE USE

Non-sworn employees using marked vehicles shall ensure all weapons are removed from vehicles before going into service. Non-sworn employees shall also prominently display the "out of service" placards or lightbar covers at all times. Non-sworn employees shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

Vehicle Operations

705.1 PURPOSE AND SCOPE

The purpose of this General Order is to set guidelines to ensure departmental vehicles are properly maintained and operated in safe and lawful manner.

705.2 DEPARTMENT VEHICLES

The Department will deploy and maintain those types of vehicles which are needed for Departmental operations. A Department vehicle may be mission specific and used for that purpose only.

705.2.1 AUTHORIZATION TO USE DEPARTMENT VEHICLE

Department members shall only operate those Department vehicles which they are legally qualified to drive and operate. A Department member shall not use any Departmental vehicle without the knowledge and consent of their supervisor. Department vehicles shall only be used for official business of the Department.

705.2.2 INSPECTIONS

The interior of any vehicle that has been used to transport any person other than an employee should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized items have not been left in the vehicle.

705.3 OPERATION OF EMERGENCY VEHICLE

An emergency vehicle shall only be operated by a sworn Police Officer or other authorized personnel. The vehicle shall be designated "out of service" with a window sign and/or a covered light bar when operated by other than sworn personnel.

705.4 DRIVERS LICENSE REQUIREMENT

Department members operating city vehicles shall maintain a valid driver's license if it is a requirement for the position held.

705.5 DRIVING SAFELY

The operation of a Department vehicle shall be conducted safely with due regard for weather, time of day, condition of the roadway and traffic conditions. Department members must be in full control of the Department vehicle at all times. Department vehicles will be operated in accordance with Department Policies and Procedures.

705.5.1 USE OF SEATBELTS

Department members shall use seat belts, as designed, at all times when operating or riding in a Department vehicle.

705.6 VEHICLE RESPONSE

The Department shall employ two (2) types of responses identified as Emergency and Routine.

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Vehicle Operations

- (a) An Emergency Response is defined as driving an emergency vehicle with the emergency lighting system activated and operating the siren as reasonably necessary.
- (b) An Emergency Response is authorized when responding to a reported life-threatening situation.
- (c) An Officer may initiate an Emergency Response, but he/she must relay to dispatch that he/she has done so.
- (d) Dispatch then is required to notify field supervision for approval to continue the Emergency Response based on the information available at the time.
- (e) Officers authorized to engage in Emergency Responses must adhere to all Vehicle Code sections regarding the operation of an emergency vehicle.
- (f) All other responses shall be a Routine Response, and the employee shall drive the vehicle with due regard for the safety of all persons.

705.7 EMPLOYEE STATUS FOR EMERGENCY RESPONSE MODE

An employee operating an emergency vehicle in an Emergency Response mode must be a full time sworn Police Officer or a Reserve Police Officer as defined in Penal Code §§ 830.1 and 830.6.

705.8 EMERGENCY VEHICLE REQUIREMENTS

Only designated and equipped Departmental vehicles shall be used as emergency vehicles.

705.9 ANNUAL REVIEW OF VEHICLE OPERATIONS

Once per year, the Administrative Division Lieutenant (and/or designee) will conduct a review for the purpose of assuring the Department policy and guidelines for traffic enforcement, vehicle operations, responses, and pursuits are current and meet Departmental need. The recommended changes will be submitted to the Chief of Police for approval.

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Chapter 8 - Support Services

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

Banning 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 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 Dispatch and officers.

802.2.1 COMMUNICATIONS LOG

The Communications Center is responsible for recording 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:

- Control number
- Date and time of request
- Name and address 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
- 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.

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Communication Operations

802.3.1 OFFICER IDENTIFICATION

Identification systems are based on factors such as assignment, rank, and seniority. 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.

802.4 COMMUNICATIONS CENTER SECURITY

- (a) The Banning Police Department Communications Center located in the Banning Police Station contains secure California Law Enforcement Telecommunications System (CLETS) access and computerized dispatch and radio terminals. It is staffed by a minimum of one on-duty Public Safety Dispatcher.
- (b) Communications Center access shall be limited to the locked doors which shall be equipped with a key or keypad combination style lock to limit access to only authorized personnel.
- (c) The doors to the Communications Center will remain closed and locked at all times to insure the security of dispatch personnel.
- (d) No unauthorized department personnel shall be inside the secure area of the Communications Center.
- (e) It is the responsibility of each on-duty Public Safety Communications dispatcher to document any breaches of security in incident form and to forward the incidents to the Dispatch Supervisor and Division Commander.

802.4.1 AUTHORIZED PERSONNEL

- (a) On-duty public safety dispatchers
- (b) Public Safety Dispatchers coming on or going off shift to allow for sufficient time to brief their relief on pertinent information.
- (c) On-Duty Watch Commander
- (d) Dispatch or Records Supervisor
 - 1. Administrative Staff (Chief, Lieutenants, Admin Secretary)
 - 2. Information Technology Technician or technicians under immediate supervision of the IT Tech
 - 3. Personnel approved by the on-duty Watch Commander for the sole purpose of dispatch relief
 - 4. Persons with written authorization from the Dispatch Supervisor

Radio Operations and Procedures

803.1 PURPOSE AND SCOPE

It shall be the policy of the Banning Police Department to adhere to and follow all regulations regarding operation of radio communications equipment established by the appropriate governing agencies and to insure that all employees are instructed in these regulations.

803.2 VOICE RADIO SYSTEM

The voice radio system is a communications system which requires strict adherence to a set of procedures. Unless these procedures are followed, the system will fail. Only one person can transmit on a particular frequency at a time. To conserve airtime and permit all parties to transmit information, it is imperative that messages be kept as brief as possible. Unnecessary use of airtime could promote disastrous results. At the precise moment one transmission is started, another officer may encounter an extreme emergency. The system must also have some procedures which are inherent to the police officer's special job requirements; i.e., pursuit, broadcasting, crimes in-progress, and multiple emergency unit dispatching.

803.3 STANDARD GUIDE FOR RADIO COMMUNICATIONS

Before the specific voice procedures are enumerated, standard rules which govern all radio operation will be reviewed.

- (a) Listen before transmitting. Be sure you have a clear frequency.
- (b) Radio checks and time checks should be held to a minimum.
- (c) Keep messages as brief as clarity will allow.
- (d) Absolutely **NO PROFANITY** is allowed. Profanity is forbidden by Federal Communications Commission (FCC) Regulations.

803.3.1 KNOWLEDGE OF THE CITY

A police officer's actions are frequently initiated in response to a radio transmission. The officer must visualize what is taking place and select a route and method of response to place themselves at the scene quickly and in the most favorable position. Such things as landmarks, businesses, schools, parks, intersections, address numbering systems etc., are invaluable tools which assist officers on their beats.

803.3.2 RADIO CODES

The Banning Police Department has officially adopted the standard TEN "10" CODE as our operating radio code. Some modifications have been made to the TEN CODE in order to facilitate local needs. This code should be used as a matter of routine communications and only deviated from under special circumstances. (See Code Listing).

803.3.3 CLARITY

In order to be understood when transmitting a message, the following rules should be adhered to:

- (a) Keep the mouth close to the microphone and speak normally. Excess volume will cause the transmitter to over-modulate, thereby distorting the signal.

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- (b) Pronounce words distinctly and slowly. The average rate of speech is 90-100 words per minute, but the average person can copy only about 30-35 words per minute using abbreviations.
- (c) Use the TEN "10" CODE whenever possible.
- (d) Choose words that are distinct and forceful in sound and that convey a definite meaning. Arrange all information in proper sequence and in complete detail before transmitting in order that there will be no hesitations.
- (e) Avoid emotion, humor, or excessive emphasis. Emotion tends to distort the voice and render it incapable of being understood. Public safety messages require very little expression, but a high degree of intelligibility.

803.3.4 BREVITY

The following points will assist in keeping radio messages concise:

- (a) Radio transmissions should be brief and to the point. Telephone facilities should be used for all lengthy messages to the Department. To insure correct receipt of a message by the receiving station, attempt to omit superfluous words and phrases such as "WILL DO", "OKAY", "COPY", "CAN DO", "POSSIBLE", "POSSIBLY", "APPROXIMATELY", "AT YOUR CONVENIENCE", "WILL CHECK AND ADVISE", "I BELIEVE", "APPARENTLY, or "YOU ARE COVERED". No excuses or verbal "thank yous" are necessary over the radio. Addition or omission of such phrases and words will not change the meaning of the message.
- (b) Anticipate questions from the receiving station and endeavor to include such information in the first transmission.
- (c) All messages should be impersonal. Use of names, nicknames, and messages not involving public safety business are improper and unprofessional. Never use the name of the person to whom you are speaking, or "I" referring to yourself. Radio systems are not licensed for person-to-person communications.
- (d) The primary reasons for having a Departmental Radio Code are clarity and brevity. In all situations where the established code properly conveys the message, the code should be used.
- (e) Extraneous information concerning the status or result of a call shall not be transmitted. If additional information is needed by dispatch, they may be advised when the officer returns to the station.

803.3.5 ACCURACY

Officers and dispatchers will make every effort to insure the correctness of transmissions. The following points will be kept in mind at all times:

- (a) Do not guess. Check all doubtful words, or ask for a repeat. Never acknowledge a message until definitely sure that the message is completely understood.
- (b) When asked for a fill-in on transmissions, give only that portion of the message requested, and do not repeat the whole message.
- (c) Correct pronunciation of numerals and letters using approved pronunciation and standard phonetic alphabet (where required) will assist in maintaining accuracy. The phonetic alphabet should not be used to excess. Where required, use phonetics on the first letter of the word and spell the balance using proper pronunciation and enunciation.

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803.3.6 PHONETIC ALPHABET

The following words will be used in place of a letter when necessary:

A-Adam	M-Mary
B-Boy	N-Nora
C-Charles	O-Ocean
D-David	P-Paul
E-Edward	Q-Queen
F-Frank	R-Robert
G-George	S-Sam
H-Henry	T-Tom
I-Ida	U-Union
J-John	V-Victor
K-King	W-William
L-Lincoln	X-Xray
	Z-Zebra

Where use of the phonetic alphabet is required for greater clarity, the whole phonetic word should be used in place of the alphabetical letter. EXAMPLE - License DGR 123 will be transmitted as "DAVID GEORGE ROBERT - ONE TWO THREE."

803.3.7 NUMBERS

All numbers should be given as individual numbers and repeated. Always use the word "Zero" and never "Oh."

803.3.8 USE OF NAMES

When transmitting, avoid using names of citizens, victims, or reporting parties. Amateur operators, the general public, the press and even criminals monitor police transmissions. Brief descriptive phrases may be used in place of proper names, i.e., "see the party," "See and/or woman." Only ask for RP's identity if absolutely necessary.

803.3.9 LONG TRANSMISSIONS

Any transmission longer than 30 seconds should be broken up at 30 second intervals by using the word "break" and waiting for 5 seconds before resuming transmission. This accomplishes two things:

- (a) It allows the station or unit copying to assure that they are receiving message, or if not, to ask for a repeat.
- (b) It allows any other station or unit who may have an emergency transmissions to go ahead without waiting, where seconds might be valuable.

NOTE: SLANG AND POLICE JARGON -The use of police jargon on the radio is not in keeping with law enforcement as a profession. Such terms as "caper," "heist," "kick in," "juvie," "deuce," etc., do not identify the modern well- trained officer, but only tends to place the officer in the same category with any other person who uses poor English. The use of the jargon above as well as other terms of like nature is prohibited in reports, radio transmissions, and .in speaking to citizens.

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803.4 FEDERAL COMMUNICATIONS COMMISSIONS (FCC) RULES

Public Safety Radio services are authorized by the Federal Communications Commission and governed by the rules contained in Part 69, Sub-part F. Following is a summary of pertinent rules, which are included here for clarification. This summary does not take the place of the entire text of the Federal Communications Commission Rules and Regulations. These rules, however, except for a few particular regulations, need not be committed to memory. Common courtesy and common sense applied to the use of the radio and radio equipment should provide adequate guidelines for any person employed by this department.

803.4.1 COMMUNICATIONS ACT OF 1934

The rules pertinent to our operations are as follows:

- (a) License suspension may occur if an operator has transmitted superfluous radio communications of signals or communications containing profane or obscene words, language, or meaning or has knowingly transmitted false or deceptive signals or communications, or a call signal or letter which has not been assigned by proper authority to the station they are operating: or
- (b) Has willfully or maliciously interfered with any other radio signals; or
- (c) Has willfully damaged or permitted radio apparatus or installations to be damaged; or
- (d) Has failed to carry out a lawful order of the master or person lawfully in charge of the stations which they are employed to operate.
- (e) The transmission of unnecessary or unidentified signals or correspondence shall be forbidden to all stations.
- (f) Before transmitting, any station must keep watch over a sufficient interval to assure itself that it will cause no harmful interference with the transmissions being made within its range; if such interference is likely, the station shall await the first stop in the transmission which it may disturb.
- (g) No one receiving a radio or wire message not intended for the public shall divulge it to anyone except the addressee or his authorized agent or to another station for forwarding, unless required to do so by a court of competent jurisdiction, and no one not entitled to it shall receive any radio or wire communication and use it for their own benefit. The penalty is a fine not exceeding \$10,000 or imprisonment for a term not exceeding two (2) years, or both.
- (h) Any person receiving official notice of a violation of the terms of the Communications Act of 1934, as amended, Treaty, or Rules and Regulations of the Commission shall answer such within 10 days or as otherwise designated. Notify the Chiefs office immediately upon receipt of any such notice.
- (i) No log or portion thereof shall be erased, obliterated, or willfully destroyed within the period of retention provided by the rules.
- (j) Logs of a radio station shall be retained by the licensee for a period of one (1) year.
- (k) For all base and fixed stations, the name of the person responsible for the operation of the transmitting equipment each shift shall sign, no initial, the record both when coming on and when going off-duty. It is essential for the operator to sign "off-duty" and "on-duty" when going to lunch in order to alleviate conflict as to who is the "responsible person" at all times. The remaining operator shall sign 'on-duty' when the other operator goes to lunch and 'off-duty' when they return.

803.4.2 COMMON VIOLATIONS

The following are the most common violations:

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- (a) Failure to sign "on" and/or "off" duty.
- (b) Time lapse between operators signing "off" and "on" duty.
- (c) Sign "on" the same time other operator signs "off".
- (d) Wrong, and duplication of dates.
- (e) Lack of station identification every 60 minutes our call sign is KNDS859. Complete call signs must be used. Digits alone are the same as an incomplete phone number.

803.4.3 FCC PENALTIES

Title V (General Penalty) - FCC Regulations provide for the following:

- (a) **Section 591** - Any person who willfully and knowingly does or causes or suffers to be done any act, matter, or thing, in this Act prohibited or declared to be unlawful, or who willfully or knowingly omits or fails to any act, matter, or thing in this Act required to be done, or willfully and knowingly causes or suffers such omissions or failure, shall upon conviction thereof, be punished for such offense for which no penalty (other than a forfeiture) is provided in this Act, by a fine of not more than \$10,000 or by imprisonment for a term not to exceed two (2) years, or both.
- (b) **Section 502** - Any person who willfully and knowingly violates any rule, regulation, restriction, or condition made or imposed by the Commission under the authority of this Act, or any rule, regulation, restriction, or condition made treaty or convention, or regulations annexed thereto to which the United States is or may hereafter become a party, shall in addition to any other penalties of not more than \$500 for each and every day during which such offense occurs.

803.5 UNAUTHORIZED RADIO EQUIPMENT REPAIR

Such things as unauthorized repairs, tampering, adjusting, or altering radio equipment do not fall under the specialized tasks of police officers or dispatchers and are therefore NOT DONE. Strange noises, unauthorized broadcasts, commercial broadcasts, unsolicited remarks and profanity fall far below the standards of those persons qualified to use police radio equipment. These things are, as might be expected, covered by FCC rules, are subject to penalty, and come clearly under the heading of common sense and common courtesy.

803.6 PRIORITIES (RADIO VS PHONE)

A dispatcher torn between priorities: which to take first - the radio or phone. The radio is always FIRST "priority. A simple call from a Car, perhaps only the call letters, may indicate an emergency situation rapidly developing. In, fact the problem sometimes starts as soon as the officer picks up the microphone. At this point, they may be off balance and have at least one hand busy whether driving or standing outside in contact with a suspect. The suspect is the first to know what the officer has done wrong and this may be the first break in the officer's routine which presents a time for escape or attack. Many officers have developed the practice of sitting on the seat of a patrol unit with their leg out the door while using the radio. There are daily instances of police officers leaning inside an open car door to call on the radio. The dispatchers have been made aware of such bad habits and are cautioned to expect that the next radio transmission may be that of an officer who has just been mashed with a car door or lost his/her weapon by turning their back on a suspect. Granted, these instances are relatively few, but along with innumerable other things, they are happening and BPD is not immune.

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803.6.1 MESSAGE PRIORITY

There will always be times when an emergency phone call is being received by the dispatcher and a patrol unit will call on the radio. This may be handled by the dispatcher acknowledging the unit with a stand by call. If your request is also an emergency, you are not faced with a dilemma which cannot be handled. With car-to-car reception, the field problem can frequently be handled by another field unit. If it is a routine request, the field officer should stand by until the station is clear. If the field officer has an emergency situation he may transmit this message to dispatch or another field unit.

803.7 ASSIGNMENT OF UNITS

The size of our city, volume of calls for police service, and manpower disbursement all require a master plan to assure adequate deployment of police personnel in our community. The department must consider the number of officers which are available for every watch on every day. The dispatcher must be aware of available manpower, its approximate location, and response time at every moment. On-duty units are to be assigned "calls for service" calls in their beat.

- (a) When the on-duty unit is busy and a call should be handled immediately, the closest practical unit will be assigned.
- (b) When the on-duty unit is busy and there is little concern about the time element on a call, the call will be held as common sense dictates. Examples of this type call may be; stolen and recovered bikes (not-in-progress), abandoned cars (where the reporting party is home and there is no emergency, found property, supplementing a previous report, delayed reports, etc.
- (c) Dispatchers will advise beat units of any call for service that cannot wait for a response. It is the officer's responsibility to determine whether to hold the call or respond immediately.

803.7.1 AVAILABILITY OF UNITS

The dispatcher must receive frequent updates from the field units therefore; the following procedure will be followed:

- (a) All units receiving a radio call will acknowledge the call by giving their location. This will be an automatic action and will apply to all calls.
- (b) When an emergency call is assigned to a unit and a back-up, each will respond with their location. Both units respond as determined by the nature of the call.

803.7.2 TEMPORARY BEAT REASSIGNMENT

Another unit will, when the beat unit leaves its assigned area for any length of time, assume beat responsibility extending beyond its own area of responsibility to cover both areas, temporarily, and notify the dispatcher of this status. When the absent unit returns to its area, the other unit will immediately return to its original area and again notify the dispatcher of this status.

803.7.3 UNIT LEAVING ASSIGNED AREA

All units will inform the dispatcher whenever it is required to leave the city.

803.7.4 REPORTING UNIT STATUS

All units shall keep the dispatcher apprised of their status.

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If an investigation in the field takes more than 15 minutes, contact should be made with the Communication Center. If an officer does not clear after a lapse of 10 minutes, and the dispatcher is unable to contact either by radio or telephone, another unit should be dispatched for the check. If there is only one unit on-duty, the Watch Commander shall be dispatched for the check.

803.8 MEANING AND USE OF CODES

803.8.1 CODE 1 MEANING AND USE

Respond at the earliest convenience or as soon as other responsibilities of higher priority permit. No emergency or serious problem is involved, and all traffic laws and regulations are to be observed by the responding unit. Normally, all radio messages are Code 1, however, they are not normally labeled as such.

803.8.2 CODE 2 MEANING AND USE

Respond as soon as possible, temporarily suspending all other activities of a non-emergency nature. Urgency rather than emergency is denoted by this code. Examples of such conditions would be an officer's need for additional equipment or a supervisor for an immediate conference. A backup unit would normally fall under Code 2 classification. Neither red light nor siren is authorized, and all traffic laws and regulations are to be observed.

803.8.3 CODE 3 MEANING AND USE

Respond immediately in emergency status. The use of red lights and siren is recommended, and the unit may proceed as an emergency vehicle in accordance with the provisions of the Vehicle Code. The applicable section of the Vehicle Code is § 21055 which enumerates the section of the Vehicle Code from which a driver of an authorized emergency vehicle is exempt, describes what conditions constitute response by an authorized emergency vehicle, and specifies that both a red lamp visible from the front and the siren shall be utilized as required.

- (a) **Elements of Code 3:** A call may justify a Code 3 if any of the following elements are present and, due to circumstances, time loss is important.
1. A serious public hazard. The location, weather conditions, time of occurrence, amount of traffic flow, and other such factors should be considered in making the determination.
 2. The preservation of life.
 3. Crimes of violence, which includes, but is not limited to robbery in-progress, robbery alarm, shooting, cutting, kidnapping, disturbance with weapons, riot, attack in-progress, assaults in-progress, and violent mental cases.
 4. Immediate pursuit.
 5. Officer needs help at a scene of an incident which is beyond their capacity to control.

All Code 3 calls will be determined by the Watch Commander, a supervisor or the officer assigned the call if the Watch Commander is not available. The determination will be made with the information available at the time the call is received and with available updated information. The dispatcher will advise responding units to downgrade the response only upon the instruction of a Watch Commander but is responsible for providing updated information on the situation as it becomes available.

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Unauthorized Code 3 runs will not be tolerated because they cause unnecessary risk to personnel, equipment, and citizens. Until such time as police officers are able to instantly appear at places where they know they are needed, law enforcement will have to tolerate the frustration caused by being in the wrong place at the right time.

There will be NO Code 3 escorts. Transportation of injured persons inside the patrol unit is the last choice, and the dispatcher will be notified when such transportation is deemed necessary. Code 3 transportation will be given only in extreme emergency cases, and the dispatcher will be notified prior to its start. The dispatcher will notify the Watch Commander in this instance and shall follow his/her directions, including termination of the Code 3 transportation if instructed. Often times, an ambulance can be available on the scene within a very short time.

Document coded assignments. The dispatcher will document each coded assignment by indicating on the Activity Log each time a coded response is given.

803.8.4 CODE 4 MEANING AND USE

The situation at the scene of an incident is under control and there is no further assistance required or there is no merit to the situation. If a Code 4 is given, units that are not actively involved in the situation should return to normal patrol. When a unit or units are assigned to an emergency, they will usually drive at a higher rate of speed than normal. If the first unit arrives at a scene and advised "Code 4", the incident is either unfounded or an emergency does not exist. The dispatcher will immediately notify the other responding units of the Code 4 status so that they may cancel or slow down as the case may be. This lessens the danger to other units.

803.8.5 CODE 5 MEANING AND USE

The dispatcher and Watch Commander will be informed of all Code 5 operation being conducted by members of this or any other department by any personnel having knowledge of or participating in same. Notice of Code 5 operations will be transmitted to all personnel on-duty by means of telephone or personal contact. Code 5 indicates a stakeout is in-progress and all units are to remain clear of the area unless requested by the personnel conducting the investigation. Code 5 stakeout conducted by officers who desire to have the area remain as normal as possible, including normal patrol by marked units, will be informed in the prescribed manner. Temporary Code 5 stakeout by patrol units will not require formal notification. THE WATCH COMMANDER OR OFFICER-IN-CHARGE OF THE SHIFT WILL BE INFORMED OF ALL CODE 5 SITUATIONS ON THE SHIFT.

803.8.6 OFFICER NEEDS HELP

The 11-99 call is a request for emergency assistance and will be considered an extreme emergency. The request of the officer shall be honored to the letter and 11-99 is an automatic Code 3 response. When an 11-99 is broadcast by a unit in trouble, the dispatcher will attract the attention of any unit not acknowledging immediately. Units will be alerted to the call and ONLY ONE UNIT will respond Code 3. All other units shall respond Code 2 as defined in § 803.82.

If a backup unit is not available, the following procedure will apply:

NOTE: PROCEDURE (a) AND (b) AND ARE INTERCHANGEABLE AND SHOULD BE DONE QUICKLY AND ALMOST SIMULTANEOUSLY.

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- (a) Contact Riverside County Sheriff's Department, California Highway Patrol, or Beaumont Police Department and request backup. Give location of the officer in trouble, nature of the emergency, and ask for estimated time of arrival. (NOTE Determination of what department to call first depends on the location, situation or availability of the agency to respond.)
- (b) The Watch Commander shall be advised of the emergency situation immediately, and follow their instructions.
- (c) Callout available Banning officers when instructed.

803.9 BASIC BROADCAST RULES

- (a) The following basic rules should be kept in mind at all times.
 1. Attract the attention of the other party in such a manner that there can be no mistake as to who is being called.
 2. Give them a chance to respond,
 3. State as briefly as possible what the nature of the call is going to be.
- (b) The following basic broadcast format should be followed:
 1. **Address.** The station being called is stated first, followed by the station sending the message. Either address can be Banning (meaning the base station), or an individual's radio number.
 2. **Acknowledgement.** The party to whom the message is addressed responds with their radio number. In the case of the base station, the acknowledgement will consist of "Banning – go ahead (radio number)",
 3. **Message.** The sending station then proceeds with the message. If an assignment is being given to a field unit, it will consist of the following five (5) portions in sequence:
 4. **Type of call.** This is the Radio Code number as specified to the BPD ten "10" CODE.
 5. **Time frame of occurrence.** When applicable, the following terms will be used to aid the officer in planning their arrival and initial actions while still en route:
 - (a) **In-progress** - indicates that the suspect is still at the scene, as far as can be determined.
 - (b) **Just occurred** - means that the incident has been completed for only a few minutes.
 - (c) **Investigation** - is used to indicate that evidence of the crime most likely still exists at the scene although the suspect is gone.
 - (d) **Report** - indicates that the incident is cold– no suspect, little chance of evidence. Little can be done except record the facts as known to the reporting party.
 - (e) **Seriousness** - If appropriate, mention will be made here of aggravated circumstances, weapons known or suspected to be involved, or overt acts committed which indicate degree of danger to citizens or officers. Short phrases such as "shots fired", "hostage taken", "fighting", "violent", "knife brandished", etc. should be employed.
 - (f) **Who to contact** - This is the description of the individual to be contacted at the scene using terms such as "see the man or woman near the car", or "see the boy or girl", etc.

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- (g) **Location of call** - This portion is the address or location to which the officer is to respond.
- (h) **Closing.** The party to which the message is addressed ends the transmission with '10-4' once they are sure that they have copied the message. The officer should record all pertinent information. This will eliminate the necessity of repeat broadcasts

803.9.1 PURSUIT PROCEDURE

The dispatcher will automatically clear the air by saying "10-33", whereupon all units and stations clear the air; (unit number) is in pursuit', and give the location and direction of travel. During the pursuit, provide the dispatcher with information so they may relay to other units. The noise connected with units in pursuit makes it difficult for the units to read one another, car-to- car, but in most cases, they all hear the base station. Banning PD and Interagency Pursuit Polices must be adhered to at all times.

- (a) Speak in a slow calm, clear voice.
- (b) Units knowing the direction of the pursuit will not be as likely to meet at intersections and can plan where to contact the pursuit.
- (c) If a pursuit is started by any Banning PD unit, they will immediately notify the Communications Center using the prescribed manner. The dispatcher will at once clear the air. The officer in pursuit will then automatically give the following:
 - 1. Direction of travel.
 - 2. The name of the street traveled on.
 - 3. The name of the last street crossed.
- (d) If the pursuit began suddenly and the Communications Center does not already have the information, the license number, make, model, and color of the suspect's vehicle, the number of suspects, and the reason they are wanted must be given. Changes of route need only be indicated by the new direction and new street. Repeat information clearly and calmly as the units in the pursuit broadcast it.

803.9.2 ALL UNITS BROADCAST

All unit broadcasts which relate to wanted persons, wanted vehicles, armed or dangerous persons who pose a threat to our community, will be aired to available units. They will not be held until all units are clear. This may involve giving the broadcast several times, but it is the responsibility of the dispatcher to expedite all calls which identify a possible danger.

- (a) If units have been off the air, information will be provided them when they return to service.
- (b) When non-emergency information is aired to all units and out-of-service units miss the transmission, the information may be provided to them by landline, when convenient, or aired if a short transmission such as cancellations of wanted persons or vehicles, recovered property, etc.

803.9.3 VERIFICATION OF DISPATCH

When transmitting an assignment, do not assume that the unit received the message—BE SURE. If a station or unit does not acknowledge, repeat the message. It is also very important that responding units be advised as quickly as possible when an emergency no longer exists or when a call has been canceled. This allows the unit to resume a normal speed and makes responding to a call less hazardous

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803.9.4 PERSONS DESCRIPTION SEQUENCE

Wanted persons should be described as given on the BOL received from any agency. The State of California, Department of Justice, Bureau of Criminal Identification and Investigation (CII) has requested that all law enforcement agencies use standardized abbreviations on all bulletins and crime reports. Note that "Caucasian" is not used and that "Black" is used in place of Negro. Such abbreviations have no racial meaning but are intended as part a physical description. In order to conform to the request of CII and in the interest of standardization and consequent clarity, members of this department will use the following abbreviations in teletypes, and over the radio.

WMA-White Male Adult	BMA-Black Male Adult	HMA-Hispanic Male Adult
WMJ-White Male Juvenile	BMJ-Black Male Juvenile	HMJ-Hispanic Male Juvenile
WFA-White Female Adult	BFA-Black Female Adult	HFA-Hispanic Female Adult
WFJ-White Female Juvenile	BFJ-Black Female Juvenile	HFJ-Hispanic Female Juvenile

803.9.5 STOLEN AND WANTED VEHICLE DESCRIPTION SEQUENCE

Stolen and wanted vehicle should be described as given on the APR received from any agency.

803.9.6 WANTED BROADCASTS

The broadcast to all units of information pertaining to wanted persons or suspect, frequently armed and in vehicles, comes up quite often. These messages have to be put in order, usually are written down in advance, are usually long, and have to be given so everyone understands them the first time.

- (a) These broadcasts are best given in the order that an officer on patrol might happen onto the suspects involved.
- (b) The first thing the officer must know is the crime, which is second nature to their thinking process and will be quickly filed away in their memory.
- (c) Knowing if the suspect is armed, unarmed, or unknown is vital to the way they will handle an initial contact.
- (d) After their mental receiver has been started in the right direction, the first new thing they might observe on patrol would be a vehicle. It is the largest and most conspicuous detail of the broadcast. They may have just passed it or be right beside it or even recognize it from a previous case.

803.9.7 DRIVER'S LICENSE INFORMATION REQUESTS (10-27)

Whenever officers request driver's license information, they will advise the dispatcher of the name and DOB of the subject, along with the Driver's License Number. When dispatchers respond with the information, they will give the Driver's License Number and the subject's name and DOB shown on the 10-27 return. Any deficiency noted in the identification of the subject will be cleared up before any further action is taken.

803.9.8 WANTED CHECKS ON SUBJECTS (10-29)

Officers requesting such checks will advise the dispatcher of the subject's complete name, DOB, sex, and race. Dispatchers responding with the information requested will give the name and identifying information to the officer as shown on the teletype. Any deficiency noted in the identification of the subject will be corrected before any further action is taken.

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804.1 PURPOSE AND SCOPE

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.

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

Any employee who first comes into possession of any property, shall retain such property in his/her possession until it is properly tagged and placed in the designated property locker or storage room along with the property form. Care shall be taken to maintain the chain of custody for all evidence.

Where ownership can be established as to found property with no apparent evidentiary value, such property may be released to the owner without the need for booking. The property form must be completed to document the release of property not booked and the owner shall sign the form acknowledging receipt of the item(s).

- (a) Documentation of evidence collected by evidence technician
 1. Investigating officers or their designee shall accompany evidence technicians as they collect evidence and initial each evidence container used to store evidence as it is processed by the technician. The officer should then document in his/her report that they observed the technician collecting, processing, and removing the evidence.

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.

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- (b) Mark each item of evidence with the booking employee's initials and the date booked using the appropriate method so as not to deface or damage the value of the property.
- (c) Complete an evidence/property tag and attach it to each package or envelope in which the property is stored.
- (d) Place the case number in the upper right hand corner of the bag.
- (e) The original property form shall be submitted with the case report. A copy shall be placed with the property in the temporary property locker or with the property if property is stored somewhere other than a property locker.
- (f) When the property is too large to be placed in a locker, the item may be retained in the supply room. Submit the completed property record into a numbered locker indicating the location of the property.

804.3.2 EXPLOSIVES

Officers who encounter a suspected explosive device shall immediately promptly notify their immediate supervisor or the Watch Commander. The Bomb Squad will be called to handle explosive-related incidents and will be responsible for handling, storage, sampling, and disposal of all suspected explosives.

Explosives will not be retained in the police station. Only fireworks that are considered stable and safe and road flares or similar signaling devices may be booked into property. All such items shall be stored in proper containers and in an area designated for the storage of flammable materials. The property officer is responsible for transporting to the Fire Department, on a regular basis, any fireworks or signaling devices that are not retained as evidence.

804.3.3 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) License plates found not to be stolen or connected with a known crime, should be released directly to the Evidence Technician, or placed in the designated container for return to the Department of Motor Vehicles. No formal property booking process is required
- (c) 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 Evidence Technician, or placed in the bicycle storage area until a Evidence Technician can log the property
- (d) All cash shall be counted in the presence of a supervisor and the envelope initialed by the booking officer and the supervisor. The Watch Commander shall be contacted for cash in excess of \$1,000 for special handling procedures
- (e) Any firearm taken into police custody shall be booked into evidence without modifying or removing parts except for those modifications necessary to render the weapon safe for storage.

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.

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804.4 PACKAGING OF PROPERTY

Certain items require special consideration and shall be booked separately as follows:

- (a) Narcotics and dangerous drugs
- (b) Firearms (ensure they are unloaded and booked separately from ammunition)
- (c) Property with more than one known owner
- (d) Paraphernalia as described in Health and Safety Code § 11364
- (e) Fireworks
- (f) Contraband

804.4.1 PACKAGING CONTAINER

Employees shall package all property, except narcotics and dangerous drugs in a suitable container available for its size. Knife boxes should be used to package knives. Syringes and needles shall not be booked but disposed of in a sharps container after the contents have been removed.

A property tag shall be securely attached to the outside of all items or group of items packaged together.

804.4.2 PACKAGING NARCOTICS

The officer seizing narcotics and dangerous drugs shall retain such property in their 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.

Narcotics and dangerous drugs shall be packaged in an envelope of appropriate size available in the report room. The booking officer shall initial the sealed envelope and the initials covered with cellophane tape. Narcotics and dangerous drugs shall not be packaged with other property.

A completed property tag shall be attached to the outside of the container. The chain of evidence shall be recorded on the back of this tag.

804.5 RECORDING OF PROPERTY

The Evidence Technician receiving custody of evidence or property shall record the date and time the property was received and where the property will be stored on the Property computer system.

A property number shall be obtained for each item or group of items. This number shall be recorded in the Property Computer System.

If, during the time the property is held by the Banning Police Department, the location of the property is changed, the change shall be noted in the Property Computer System.

804.6 PROPERTY CONTROL

Each time the Evidence Technician receives property or releases property to another person, he/she shall enter this information in the property computer system and the individual receiving the property shall sign the updated Property Control Card verifying

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they took possession of the item(s). Officers desiring property for court shall contact the Evidence Technician at least one day prior to the court day.

804.6.1 RESPONSIBILITY OF OTHER PERSONNEL

Every time property is released or received, an appropriate entry on the Property Computer system shall be completed to maintain the chain of possession. No property or evidence is to be released without first receiving written authorization from a supervisor or investigator.

Request for analysis, for items other than narcotics or drugs, shall be completed on the appropriate forms and submitted to the Evidence Technician. This request may be filled out any time after the booking of property or evidence.

804.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY

The transporting employee will check the evidence out of property, indicating the date and time in the property computer system and showing the property was removed due to a request for laboratory analysis.

The Evidence Technician releasing the evidence must complete the required information in the property computer system, completing an appropriate entry on the Evidence Control Sheet. The lab forms will be transported with the property to the examining laboratory. Upon delivering the item involved, the officer will record the delivery time on both copies, and indicate the locker in which the item was placed, or the employee to whom it was delivered. The original copy of the lab form will remain with the evidence, and the copy will be returned to the Records Bureau for filing with the case.

804.6.3 STATUS OF PROPERTY

Each person receiving Property will make the appropriate entry to document the chain of evidence by making a computer entry and printing a hard copy of the Evidence Control Sheet or Property Receipt showing the new status of that item of property. Temporary release of property to officers for investigative purposes, or for court, shall be noted in the property computer, stating the date, time and to whom released.

The Evidence 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.

The return of the property should be recorded in the property computer, indicating date, time, and the person who returned the property.

804.6.4 AUTHORITY TO RELEASE PROPERTY

The Detective Sergeant 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

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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 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 Records Bureau for filing with the case. If some items of property have not been released the property card will remain with the Evidence Room. 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 § 12021.3(e).

The Evidence Room 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).

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 CONTROL OF NARCOTICS & DANGEROUS DRUGS

The Property Technician will be responsible for the storage, control, and destruction of all narcotics and dangerous drugs coming into the custody of this department, including paraphernalia as described in Health & Safety Code § 11364.

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,

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may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The 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)
- 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 fifteen dollars (\$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 Evidence Room 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 Investigation Division supervisor

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Biological evidence shall be retained for a minimum period established by law (Penal Code § 1417.9), the Evidence Room 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 Investigation 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.

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 Investigation Division supervisor should be consulted and the sexual assault victim should be notified.

804.8 PROPERTY/EVIDENCE FUNCTION AND PROCESS AUDIT

On a semi-annual basis, an audit will be conducted of the department's property/evidence function and process. The audit will review the overall property and evidence operation, including written documentation; verifying location of property and evidence; and confirming timely and proper disposal of property. The audit is conducted to determine if property/evidence management directives are being followed and if property having no evidentiary value is being disposed of according to policy.

Booking of Digital Photographs, Video, and Audio Recordings

805.1 PURPOSE AND SCOPE

The purpose of this General Order is to establish a Department Procedure for the proper booking process of digital photographs, videos, and audio recordings for evidence.

805.1.1 DEFINITIONS

- (a) **Digital Audio:** Digital audio technology is obtained through digital audio recorders. Audio digital files usually contain extensions of .dss, .wav, .wma, .mp3 or .cda. The best format for digital audio is .wav since it can easily be reformatted to several other media sources.
- (b) **Digital Video:** Digital Video technology is obtained through digital video recorders. Digital video involves the conversion of sequenced video stills into digital computer files. Video files are very large and are almost always compressed since uncompressed files can fill up a hard drive rapidly. These types of files usually have the extensions of .mov or .mpeg.
- (c) **Digital Photograph:** Digital Photographs are obtained through the use of digital cameras. This type of file is stored in numerical form. Digital photographs usually have file extensions of .jpg, .tiff, or .bmp. The best format for digital photos is .jpg since this type of file is compressed and does not take up as much space on the hard drive. The file extension of .jpg also can easily be opened by most photo software.

805.1.2 STANDARDS

In order to ensure that digital evidence is collected, preserved or transferred in a method safeguarding the accuracy and reliability of the evidence this department needs to maintain a quality system. Quality control guidelines must be established. These guidelines must be established by keeping in mind generally accepted procedures by the courts and the scientific community. Standards must be reviewed frequently in order to keep up with rapid moving technology. What is appropriate or effective today may not be suitable in the future.

805.2 DIGITAL PHOTOGRAPHY

Photographs taken by Department Personnel should be processed in the following manner:

- (a) The digital camera card should be copied onto a non-rewritable CD before viewing on a computer screen. Photo files should be saved in .jpg file format.
- (b) Label both the CD & CD case with report number, date, time of recording, number of images (photos) and name of person who took the photos. In addition, place the following remark on the front of the CD case: "This certifies that the digital media contained on this CD/video tape was recorded directly from the digital camera card/original digital video cassette/digital audio recorder prior to screening on the computer. The undersigned officer certifies that this digital media is therefore identical to the digital photos/digital video/digital audio taken at the scene".
- (c) Once a copy of the photographs is on a CD, the digital files can be viewed safely. In this manner there is no concern with accidentally erasing the photos. The original

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image remains on the CD and should never be altered. The copied CD can be placed into evidence as an original copy.

- (d) Department Personnel can now view, print or enhance the photographs off a CD. Keep in mind that any changes that are made to the photos have to be documented in written form. If the enhanced photos are used in court they can be challenged. The defense has the right to know how the changes were made and what was changed. Make sure you keep good notes on the enhancement process if you do alter the original photo. The notes should be such that the process of enhancement/alteration can be repeated with the same final results.
- (e) Erase all images of the photographs from the digital camera card and computer at the completion of the booking process.

805.3 DIGITAL VIDEO

Digital video taken by Department Personnel should be processed in the following manner:

- (a) Video recorded off a digital video recording camera shall be copied onto a non-rewritable CD or standard VHS analog cassette tape. The digital video will be converted to MPEG compression format that is the most standard format to work with. The original copy of the digital recording will remain unaltered in the evidence locker. The digital video will not be stored into a computer database because of the tremendous amount of memory space necessary to store digital video.
- (b) Any other copies can be used as a working copy. The working copy can then be enhanced or changed at the officer's discretion. Copies for Discovery will be made off the original digital video recording. Alterations should be documented in written case notes. The notes should be detailed enough where trained personnel can repeat the steps and produce the same results when the image is subjected to image analysis.
- (c) The CD(s) or VHS cassette tape will be labeled in the same manner as the digital photographs.

805.4 DIGITAL AUDIO

Digital Audio taken by Department Personnel should be processed in the following manner:

- (a) Digital audio taken from a digital audio recorder will be downloaded to a non-rewritable CD. The CD will then be placed into evidence. The audio recording will be copied to .WAV format.
- (b) The labeling of the CD will be made in the same manner as other digital media copies.
- (c) If enhancement is needed, any changes to the audio recording should be documented in written case notes. The notes should be detailed enough where trained personnel can repeat the steps and produce the same results when the recording is subjected to audio analysis.

805.5 MEDIA STORAGE

All media will be store in a secure area with access restricted to authorized people. Recordings not otherwise needed for official reasons shall be retained for a period of not less than one year and thereafter should be erased with the written consent of the City Attorney. Any recordings needed as evidence in a criminal or civil proceeding shall be copied to a suitable medium and booked into evidence in accordance with current evidence procedures. (Government Code § 34090.6).

Records Bureau Procedures

806.1 PURPOSE AND SCOPE

The Records Manager shall maintain the Department Records Bureau Procedures Manual on a current basis to reflect the procedures being followed within the Records Bureau. 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 Records Bureau by Records Bureau personnel.

806.1.2 NUMBERING SYSTEM

Reports are numbered based upon a numbering system generated by the CAD/RMS system at the time a call is initiated.

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 Records Bureau accessible only to authorized Records Bureau personnel. Access to report files after hours or when records personnel are otherwise not available may be obtained through the Watch Commander.

Banning 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 Records Bureau. Should an original report be needed for any reason the requesting employee shall first obtain authorization from the Records Supervisor. All original reports removed from the Records Bureau 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 Records Bureau.

806.3 REVIEW OF DEPARTMENTAL REPORTS AND RECORDS

The review of any departmental reports and records is prohibited unless employees reviewing the reports and/or records are doing so in an official capacity and the review is necessary for them to complete an official investigation and/or assignment.

806.4 DETERMINATION OF FACTUAL INNOCENCE

In any case where a person has been arrested by officers of the Banning 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 Administration Supervisor. The Administration 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.

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Upon receipt of a written opinion from the prosecuting attorney affirming factual innocence, the Administration Supervisor should forward the petition to the Chief of Police or their designee and the City Attorney for review. After such review and consultation with the City Attorney, the Detective Bureau Supervisor and the Administration Supervisor shall decide whether a finding of factual innocence is appropriate.

Upon determination that a finding of factual innocence is appropriate, the Administration 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 Administration 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.

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 Banning 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 tabular 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.

808.2.3 EVIDENCE TECHNICIAN RESPONSIBILITY

The 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.

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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 from the Banning Police Department.

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 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.

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.

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 Administration Division Commander 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 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).

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- (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), 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.).

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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).

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.

Criminal Offender Record Information (CORI)

812.1 PURPOSE & SCOPE

This policy provides guidelines for the release of criminal offender information, security of that information, and persons authorized to release that information.

812.2 AUTHORITY

This policy is established pursuant to the mandate of the Regulations Regarding Security of Criminal Offender Record Information in California, Title 11, California Code of Regulations. Other authority includes Penal Code § 11105, which delineates who has access to Criminal Offender Record Information (CORI), and Penal Code §§ 11140 through 11144, which establishes penalties for the improper use of rap sheets.

812.3 DEFINITIONS

Criminal Offender Record Information - (CORI) shall include CII manual/automated rap sheets and abstracts, CII crime summaries, CII criminal history transcripts, FBI rap sheets, and any BPD documents containing a list of prior arrests.

Criminal Justice Agency - A public agency or component thereof which performs a criminal justice activity as its principal function.

Authorized Recipient - Any person or agency authorized by court order, statute or case law to receive CORI.

Right to Know - Persons or agencies authorized by court order, statute or decisional case law to receive the information.

Need to Know - A necessity exists to obtain CORI in order to execute official responsibilities.

812.4 AUTHORIZED RECIPIENTS OF CORI

CORI may be released only to authorized recipients who have both a right to know and a need to know. All law enforcement personnel with proper identification are authorized recipients, if they have an official need to know.

The California Department of Justice has issued a list of agencies authorized to receive criminal history information. Persons not included in the Department of Justice list are not authorized recipients and shall not receive CORI.

812.4.1 CRIMINAL RECORD SECURITY OFFICER

The Records Supervisor is the designated Criminal Record Security Officer for the Banning Police Department. This supervisor is responsible for ensuring compliance with this procedure and with applicable records security regulations and requirements imposed by federal and state law. The Criminal Record Security Officer will resolve specific questions that arise regarding authorized recipients of CORI.

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Criminal Offender Record Information (CORI)

812.4.2 RELEASE OF CORI

Only the persons listed below are authorized to release CORI. Each authorized person releasing CORI is responsible to ensure that each request granted appears legitimate and that the requester is an authorized recipient with a right and need to know.

- (a) Criminal Records Security Officer
- (b) Records Supervisor
- (c) Full-time employees of the Records Bureau
- (d) Personnel specifically designated in writing by Division Commanders with the concurrence of the Criminal Records Security Officer

812.4.3 RELEASE OF CORI TO FIELD PERSONNEL

Personnel shall not have access to CORI until a background investigation has been completed and approved.

CORI shall not generally be transmitted by radio, cellular phone, or through computer terminals to field personnel or vehicles except in cases where circumstances reasonably indicate that the immediate safety of the officer or the public are at significant risk. Examples of situations where the transmission of summary criminal history information would be justified include a hostage situation or an armed suspect however a routine investigation or traffic enforcement stop would not be sufficient justification.

Nothing in this procedure is intended to prohibit broadcasting warrant information concerning wanted persons.

812.5 JUVENILE RECORDS

Nothing in this procedure is intended to alter existing statutes, case law, or the policies and orders of the Juvenile Court regarding the release of juvenile offender records. Refer to Policy Manual § 324 for more specific information regarding cases involving juveniles.

812.6 REVIEW OF CRIMINAL OFFENDER RECORD

Penal Code §§ 11120 through 11127 provide the authority and procedure whereby an individual may review his/her own California Department of Justice (CII) rap sheet.

Individuals shall be allowed to review their arrest or conviction record on file with the Department after complying with all legal requirements.

812.7 PROTECTION OF CORI

CORI shall be stored in the Records Bureau where constant personnel coverage will be provided. CORI stored elsewhere shall be secured in locked desks, locked file cabinets, or in locked rooms.

Direct access to CORI stored in the Records Bureau shall be restricted to the Records Bureau personnel authorized to release it. Direct access to CORI stored in desks, file cabinets, and rooms outside the Records Bureau shall be restricted to those persons who possess both the right to know and the need to know the information.

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Criminal Offender Record Information (CORI)

812.7.1 COMPUTER TERMINAL SECURITY

Computer terminal equipment capable of providing access to automated criminal offender record information is located in the Records Bureau, Dispatch and in the Detective Bureau to preclude access by unauthorized persons.

No employee shall be authorized to operate computer terminal equipment with access to CORI until the operator has completed the appropriate training.

812.7.2 DESTRUCTION OF CORI

When any document providing CORI has served the purpose for which it was obtained, it shall be destroyed by shredding.

Each employee shall be responsible for destroying the CORI documents they receive.

812.7.3 CUSTODIAN OF CRIMINAL RECORDS

The Records Supervisor, unless otherwise directed by the Administration Division Commander, shall be the Department's official Custodian of Criminal Records. The Custodian of Criminal Records shall be responsible for the security, storage, dissemination and destruction of criminal records, and will serve as a primary contact for the California Department of Justice for any related issues. The Administration Division Commander may appoint other department employees to the role of Custodian of Criminal Records, who will share the same responsibilities regarding criminal records.

The Administration will ensure that he/she makes the appropriate applications and notifications to the California Department of Justice regarding the Department's Custodian of Criminal Record appointments, per the requirements of Penal Code § 11102.2.

This subsection is not intended to interfere with any other employee acting as a custodian of records for other statutory purposes but is narrowly tailored to address issues of criminal history records.

812.8 TRAINING PROGRAM

All personnel authorized to process or release CORI shall be required to complete a training program prescribed by the Criminal Record Security Officer. The Training Bureau shall coordinate the course to provide training in the proper use, control, and dissemination of CORI.

812.9 PENALTIES FOR MISUSE OF RECORDS

Penal Code §§ 11140 and 11144 make it a misdemeanor to furnish, buy, receive, or possess Department of Justice rap sheets without authorization by a court, statute, or case law.

Title 11, California Administrative Code § 702 provides that authorized persons or agencies violating the Regulations Regarding the Security of Criminal Offender Record Information in California may lose direct access to CORI maintained by the California Department of Justice.

Divulging the content of any criminal record to anyone other than authorized personnel is a violation of Policy Manual § 340.3.7(a).

Employees who obtain, or attempt to obtain, information from the department files other than that to which they are entitled in accordance with their official duties is a violation of Policy Manual § 340.3.7(a).

Records Destruction Procedure

813.1 PURPOSE AND SCOPE

Government Code § 34090 provides that the head of a city department may destroy certain city records, documents, or instruments under his charge, without duplication, with the approval of the City Council by resolution and with the written consent of the City Attorney. This procedure set in place by the City Council of the City of Banning and with the written consent of the City Attorney of the City of Banning allows records of the Banning Police Department that are no longer needed and are no longer required to be retained by law, without making a copy thereof, to be destroyed.

813.2 PROCEDURE

813.2.1 ONE HUNDRED EIGHTY DAY RETENTION

The following records will be retained for one hundred eighty days and subsequently destroyed:

- (a) Routine daily tape recordings of telephone and radio communications
- (b) Transmittal forms
- (c) Citations issue forms
- (d) CLETS teletypes: All incoming and outgoing teletypes not connected with an Banning Police Department case

813.2.2 TWO YEAR RETENTION

The following records will be retained for two years and may subsequently be destroyed:

- (a) Citizen on Patrol requests
- (b) Parking citations
- (c) Repossession reports
- (d) Records of Reserve Police service assignments
- (e) E-911 print outs
- (f) Receipts and petty cash information
- (g) Monthly reports, both State and City
- (h) Daily activity records and Watch Commander logs.
- (i) Payroll slips: Overtime, time-off, sick leave
- (j) Expired Police Department issued permits and licenses including applications and related documentation (also includes all applications and supporting documentation where no permit or license was issued, from the date of notice of denial or withdrawal).
- (k) Those § 11590 Health and Safety and § 290 Penal Code registrant files which have been either ordered purged by the Court of when the subject of record is deceased
- (l) § 11590 Health and Safety and § 290 Penal Code registrant files which have been either ordered purged by the court or when to subject of record is deceased.
- (m) Auction receipts
- (n) Lost/Found property reports

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- (o) Miscellaneous non-criminal reports
- (p) Field Interview cards

813.2.3 THREE YEAR RETENTION

- (a) The following records will be retained for three years and may subsequently be destroyed:
 - 1. Expired bicycle licenses and related log sheets
 - 2. Traffic citations
 - 3. Misdemeanor crime reports including investigative working files, providing that:
 - (a) There is no outstanding warrant related to the report
 - (b) There is no property outstanding in DOJ or NCIC
 - (c) There is no death connected with the report
 - (d) They are not involved in civil or criminal litigation
 - (e) They do not involve a Banning City employee
 - (f) They do not relate to an arrest
 - 4. Missing persons reports which have been cleared
 - 5. Runaway reports, where the subject has returned, or has reached his/her eighteenth birthday
 - 6. Stored/impounded vehicle reports
 - 7. Firearms registration
 - 8. Pawn reports
 - 9. Injury/overdose/attempt suicide reports not resulting in death
 - 10. All complaint reports determined not to describe criminal action
 - 11. Misdemeanor citations
 - 12. Traffic accident investigation reports including investigative working files, where no fatality occurred, providing that:
 - (a) There is no outstanding warrant related to the report
 - (b) They are not involved in civil or criminal litigation
 - (c) They do not involve a Banning City employee
- (b) Background investigations of applicants for positions with the Department when the applicant was not hired.
- (c) Personnel records concerning recruitment, hiring and promotional process time period for which will commence on the expiration date of the eligibility list for the affected process.

813.2.4 FIVE YEAR RETENTION

The following records will be retained for five years and may subsequently be destroyed:

- (a) Felony crime reports including investigative working files, provided that:
 - 1. There is no outstanding warrant related to the report
 - 2. There is no property outstanding in DOJ or NCIC
 - 3. There is no death connected with the report
-

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4. They are not classified under §§ 799,800,290 Penal Code or 1185
- (b) Personnel complaints initiated by the Police Department against Department employees, together with any investigations, reports and/or findings providing such documents are not evidence in any claim filed or pending litigation {or potential litigation}, in which case, such documents shall be preserved for five years after the conclusion of litigation.
- (c) General correspondence
- (d) Criminal Intelligence Reports
- (e) Subpoena log
- (f) Citizen initiated complaints against Department employees, together with investigations, reports and/or findings providing such documents are not evidence in any claim filed or pending litigation (or potential litigation), in VI case, such documents shall be preserved for five years after the conclusion of litigation.
- (g) Ex-employee personnel records

813.2.5 SEVEN YEAR RETENTION

The following records will be retained for seven years and may subsequently be destroyed:

- (a) Outstanding stolen vehicle reports
- (b) Felony arrests, unless disposition indicates that the defendant is still incarcerated

813.3 MAJOR CRIMES

The records specified in this general order do not include any documents relating to capital crimes, embezzlement of public funds, bribery of public officials, reports involving employees or any prisoner arrest files of child 'abuse reports, except as noted.

813.4 CLAIMS AGAINST THE CITY

This does not grant authority for the destruction of any records or file where a claim against the City has been filed and that claim is subject to adjudication.

Seizure of Computers and Related 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.
- (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,

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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 Evidence Room 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.

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.

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- (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.

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Chapter 9 - Custody

Custody Searches

902.1 PURPOSE AND SCOPE

The purpose of this policy is to establish consistent department procedures which conform to Penal Code § 4030 regarding pat-down, booking and strip searches of pre-arraignment detainees.

902.2 DEFINITIONS OF SEARCHES

Pat-Down Search - This is the normal type of search 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 prisoner, or other prisoners.

Booking Search - This search is used in the jail and again involves a thorough patting down of an individual's clothing. All pockets, cuffs, etc., on the clothing are checked to locate all personal property, contraband, or weapons. The prisoner's personal property is taken and inventoried.

Strip Search or Visual Body Cavity Search - This is a search that requires a person to remove or rearrange some or all of his/her clothing to permit a visual inspection of the underclothing, breasts, buttocks or genitalia of such person (Penal Code § 4030(d)(2)). This includes monitoring of an arrestee showering or changing clothes where the arrestee's underclothing, buttocks, genitalia or female breasts are visible to the monitoring employee.

Physical Body Cavity Search - This is a search that includes physical intrusion into a body cavity. Body cavity means the stomach or rectal cavity of a person, and the vagina of a female person (Penal Code §§ 4030(d)(1) and 4030(d)(3)).

902.3 PAT DOWN SEARCHES

When any officer has reasonable suspicion to believe that a person being lawfully detained may possess weapons or other dangerous items, or in such circumstances the officer reasonably believes that the individual may present a threat to officer safety, that officer may conduct a normal pat-down search of that individual.

Prior to detaining any individual in any police vehicle, an officer should conduct a normal pat-down search of that individual.

Whenever practical, a pat-down search of an individual should be conducted by an officer of the same sex as the person being searched. Absent the availability of a same sex officer, it is recommended that a witness officer be present during any pat-down search of an individual of the opposite sex as the searching officer.

902.4 BOOKING SEARCHES

- (a) Absent emergency circumstances in which no reasonable alternative exists, no person arrested for a misdemeanor or infraction not involving weapons, controlled substance or violence may be placed in the general jail population, unless all of the following conditions exist:
 1. The person is not cited and released

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2. The person is not released on his or her own recognizance
 3. The person is not able to post bail within a reasonable time not less than three hours
- (b) Any person taken into custody may be subjected to pat-down searches, metal detector searches, and thorough clothing searches in order to discover and retrieve concealed weapons and contraband prior to being placed in a booking cell.

902.5 STRIP SEARCHES

No person held at a Banning Police Department facility shall be subjected to a strip search unless there is reasonable suspicion based upon specific and articulable facts to believe the person 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:

- (a) The detection of an object during a pat-down search that may be a weapon or contraband and cannot be safely retrieved without a modified strip search or strip search.
- (b) Circumstances of a current arrest that specifically indicate the person may be concealing a weapon or contraband. 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 (past possession of contraband while in custody, assaults on staff, escape attempts).
- (d) The person's actions or demeanor.
- (e) Criminal history (level of experience in a custody setting).

No transgender or intersex prisoner shall be searched or examined for the sole purpose of determining the prisoner's genital status. If the prisoner's genital status is unknown, it may be determined during conversations with the prisoner, by reviewing medical records, or, if necessary, as part 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 Banning Police Department facilities shall be conducted as follows (Penal Code § 4030; 28 CFR 115.115):

- (a) Written authorization from the Watch Commander shall be obtained prior to the strip search.
- (b) All employees involved with the strip search shall be of the same sex as the person being searched, unless the search is conducted by authorized medical personnel (28 CFR 115.115).
- (c) All strip searches shall be conducted in a professional manner under sanitary conditions and in a secure area of privacy so that the search cannot be observed by persons not participating in the search. The search shall not be reproduced through a visual or sound recording.
- (d) Whenever possible, a second officer of the same sex should be present during the search for security and as a witness to the finding of evidence.
- (e) Employees conducting a strip search shall not touch the breasts, buttocks or genitalia of the person being searched.

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- (f) The primary employee 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 person who was searched.
 5. The name and sex of the persons who conducted the search.
 6. The name, sex and role of any person present during the search.
 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, recovered during the search.
 10. The facts upon which the employee based his/her belief that the person searched was concealing a weapon or controlled substance, if the person was not arrested for a felony.
- (g) A copy of the written authorization shall be retained and made available upon request to the prisoner or the prisoner 's authorized representative.
- (h) No employee should view a prisoner's private underclothing, buttocks, genitalia or female breasts while the prisoner is showering, performing bodily functions or changing clothes, unless the prisoner otherwise qualifies for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the prisoner with a shower or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to obtain the prisoner 's consent and/or otherwise protect the prisoner 's privacy and dignity.

902.6 PHYSICAL BODY CAVITY SEARCH

- (a) No person arrested on a misdemeanor or infraction shall be subjected to a body cavity search without a search warrant (Penal Code § 4030(h)).
- (b) A copy of the search warrant and the results of any body cavity search shall be included with the related reports and made available, upon request, to the arrestee or authorized representative (Penal Code § 4030(i)).
- (c) Only a physician, nurse practitioner, registered nurse, licensed vocational nurse, or Level II Emergency Medical Technician (EMT) may conduct a physical body cavity search (Penal Code § 4030(k)).
- (d) Except for the above mentioned licensed medical personnel, persons present must be of the same sex as the person being searched. Privacy requirements, including restricted touching of body parts, are the same as the strip search standard.

902.7 TRAINING

The Training Sergeant shall ensure members have training in, at a minimum (28 CFR 115.115):

- Conducting searches properly in a professional and respectful manner and in the least intrusive manner possible, consistent with security needs.
- Conducting cross-gender searches.
- Conducting searches of transgender and intersex prisoners.

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903.1 PURPOSE AND SCOPE

It is the policy of the Banning Police Department to comply with the U.S. Constitution, Federal, State and case law in regards to arrests and detentions of person by police officer personnel.

903.2 DEATH WHILE IN CUSTODY-BUREAU OF CRIMINAL STATISTICS NOTIFICATION.

The on-duty supervisor will be notified immediately. If there is no supervisor on duty, the officer shall notify the following:

- (a) On-call supervisor.
- (b) Division Lieutenant.
- (c) Chief of Police.

The Department investigator will be contacted to assist in the investigation. The Chief of Police will evaluate the circumstances and invoke the Investigative Protocol for Riverside County when necessary. A complete copy of the report shall be sent to the Bureau of Criminal Statistics, attention: Death in Custody Program, within ten days.

903.3 BAIL AND ARRESTEE RIGHTS

- (a) **MAGISTRATE**-Penal Code § 825 states that an arrestee shall be taken before a magistrate without unnecessary delay. Since the Department's holding facility is for temporary detention only, arrestees requiring or demanding immediate appearance before a magistrate shall be booked in the Riverside County Jail. It is the responsibility of the Riverside County Sheriffs Office to deliver the arrestee to a magistrate.
- (b) **BAIL FOR ARRESTEES**-The Department does not accept bail from or on behalf of arrestees. To post bail, citizens should be referred to the Riverside County Sheriff.
- (c) **ACCESS TO ATTORNEY**-In the event the attorney for an arrestee arrives at the Department prior to the arrestee being transferred to the Riverside County Jail or another facility, or prior to the arrestee being released, the arrestee and his attorney shall be afforded a place of privacy to confer. The on-duty supervisor/officer will note the conference between the arrestee and his attorney. The attorney and his/her personal effects will be subject to search and inspection prior to coming into contact with the arrestee.
- (d) **TELEPHONE CALLS**-Penal Code § 851.5 states than an arrestee has a right to make at least three completed telephone calls immediately upon being booked or no later than three hours after the arrest. It is the responsibility of the arresting officer to ensure that the arrestee is given the opportunity to make the telephone calls.

903.3.1 POST ARREST AND BOOKING SUPERVISOR APPROVAL

Officers shall obtain approval from a Supervisor for all post-arrest decisions (i.e. the decision to book, cite release, etc.). After an arrest has been made and prior to the arrested subject's release, the arresting officer shall contact a Supervisor and inform the supervisor of the circumstance(s) of the arrest. After review of the circumstances of the

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arrest, the Supervisor will determine the release status of the arrestee. The notification to the supervisor may be made either in person, telephone, Nextel, etc.

In instances where Officers are only issuing a Notice to Appear for a violation (i.e. Vehicle Code § 12500) and the suspect was not physically taken into custody, the officer has no need to notify a supervisor prior to the release of the suspected offender.

Each Supervisor shall complete a Watch Commander's Report for his/her assigned shift. The completed Watch Commander's Report shall document all arrests made during the shift. Supervisors will be responsible for submitting the completed Watch Commander's Report to the Patrol Division Lieutenant on a daily basis. Supervisors are to ensure that the current version of the Watch Commanders Report is utilized.

903.3.2 CITE AND RELEASE POLICY

- (a) The purpose of the Cite and Release Policy is to allow officers the flexibility, whenever possible, to book arrestees "in house" and release them from the Department facility rather than book them at Riverside County Jail.
- (b) It shall be the Department policy to deal with persons coming into our custody in a humane and dignified manner and to interfere with their freedom of movement to the least possible extent under the law while conforming to sound practices conducive to the safety of all personnel. (Refer §§ 827.1 and 853.6 Penal Code.) § 853.6 of the Penal Code permits a subject arrested for a misdemeanor to be released on a notice to appear, at the officer's discretion. The following guidelines will be adhered to in reference to citation releases for misdemeanors (including numerous traffic offenses) and/or foreign warrants:
 - 1. An arrestee may be released on his/her promise to appear provided:
 - (a) The arrestee has not demanded to be immediately taken before a magistrate.

903.3.3 PERSONS INELIGIBLE FOR RELEASE

- (a) Pursuant to Penal Code § 827.1, persons who are stopped with a warrant for one of the following violations will not be considered for release under the above procedure:
 - 1. The misdemeanor cited in the violation involves violence.
 - 2. The misdemeanor cited in the violation involves a firearm.
 - 3. The misdemeanor cited in the violation involves resisting arrest.
 - 4. The misdemeanor cited in the violation involve giving false information to a Peace Officer.
 - 5. The warrant of arrest indicates that the person is not eligible to be released on a citation.
- (b) Pursuant to Penal Code § 853.6, a person arrested for an offense declared to be a misdemeanor, including a violation of any city or county ordinance, does not demand to be taken before a magistrate, that the person shall be released in accordance with this General Order.
- (c) Whenever any person is arrested by a Peace Officer for a misdemeanor, that person shall be released according to the procedures set forth by this chapter unless one of the following is a reason for non-release. In such a case, the officer must indicate, in a form provided by the Department, so indicate which of the following was a reason for non-release:

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1. The person arrested is a danger to himself/herself due to intoxication or being under the influence of narcotics or drugs, to the extent that releasing him/her into the custody of another person may compromise someone's safety.
2. The person requires medical care or is otherwise unable to care for themselves.
3. The person has other ineligible charges pending against him/her. (An example of this would be a DUI that would qualify for a community cite and release but has a foreign warrant such as resisting arrest. The officer issues a citation to appear for the DUI, and transports the subject for the foreign warrant to Riverside County Jail.)
4. There is a reasonable likelihood that the offense or offense would continue or resume, or that the safety of the persons or property would be immediately endangered by the release of the person.
5. The person refuses to sign the citation.
6. The person cannot or will not provide satisfactory, verifiable means of identification. (If the person can provide proper identification within a reasonable amount of time, the arrestee may then be released from the station after booking.)
7. In the event of multiple warrants, if one of the warrants states no citation may be issued, then all warrants must be served and no citation may be issued for any of the warrants.

903.3.4 PROCEDURE FOR RELEASE FOR RECORDABLE OFFENSES

Most misdemeanors which we can and do cite and release in the field or at the Police facility need to have certain procedures followed in order to ensure the violation will be properly recorded into CII. The procedure shall only apply to individuals who are cited out at the Banning Police Department, not bookings at Riverside County Jail. These are individuals who are cooperative and do fall within the guidelines set forth in § 853.6 of the Penal Code. When an individual is booked at the jail, the custody deputies complete this process. A list of recordable violations is to be maintained in dispatch.

- (a) **FORMS**-Department of Justice Form JUS/8715 is to be completed and attached by the arresting officer at the time of processing on all specified offenses. The exceptions (which are not reportable) are listed below:
 1. 647(F) (alcohol)
 2. Minor in possession.
 3. City Ordinance violations.
 4. Possession of marijuana under an ounce.
 5. Trespassing with a motor vehicle.
 6. Misdemeanor DUI.
- (b) The routing of the completed JUS/8715 FORMS shall be the responsibility of the Records Bureau.

903.3.5 OFFICER RESPONSIBILITY

Arresting officers shall fingerprint all suspects who are arrested for recordable violations using the CAL ID Live Scan machine. Officers are responsible for ensuring fingerprints are properly downloaded into the CAL ID Live Scan system. Uncooperative and/or potentially violent suspects should be transported to a Riverside County Jail Facility for processing.

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- (a) **ROUTING**-A member of the Records Bureau shall review the JUS/8715 forms to ensure the corresponding information is accurate and complete. When errors are found, it shall be brought to the attention of a supervisor.
- (b) The entire JUS/8715 along with each arrest report will be submitted to the District Attorneys office.
- (c) The same procedure applies regardless if the arrestee is a juvenile or an adult. Discretion is allowed and recommended for juveniles, especially juveniles under age 14.

903.4 PROCEDURE FOR RELEASE FOR FOREIGN WARRANTS

- (a) The officer requests dispatch to confirm the warrant. While doing so the dispatcher obtains the court name, jurisdiction, date and time of appearance, giving the same to the officer.
- (b) The officer uses the standard field citation filling in all the appropriate information.
- (c) The officer then obtains a case number and time from dispatch.
- (d) The officer places the following information in the violation(s) section of the citation:
 - 1. "En route arrest" to: (Agency name that holds the warrant).
 - 2. Warrant number, date of warrant, and offense listed.
- (e) The officer shall ensure that information including the correct jurisdiction information, address, and date/time for appearance are placed on the citation or at the bottom of the violation section.
- (f) The officer will give the subject his copy of the completed and signed citation.
- (g) Once the citation has been issued, the dispatcher will locate the warrant in the computer.
- (h) The officer will fill out an arrest report and submit the same with the citation and the warrant confirmation teletype. The officer will also attach the JUS/8715 and submit it with the report. Once the report has been approved by a supervisor, the records section will mail the original citation along with a copy of the report and a copy of the abstract warrant to the appropriate jurisdiction. The entire JUS/8715 form will be forwarded to the agency responsible for the case.

903.5 BAIL - VEHICLE CODE SECTION 40304.5

Under this provision, detainees taken into custody for bail collection:

- (a) Who have two or fewer outstanding warrants, or
- (b) Who are arrested for failure to appear on a parking citation or traffic infraction, may not be booked, photographed, or fingerprinted for at least three (3) hours. During this three-hour period, the arrestee must be given an opportunity to immediately post cash bail or arrange a deposit of bail.

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Chapter 10 - Personnel

Recruitment and Selection

1000.1 PURPOSE AND SCOPE

The employment policy of the City of Banning 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, 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 City of Banning Department of Human Resources.

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 City of Banning Department of Human Resources 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 City of Banning 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:
 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

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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)
 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

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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
 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

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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

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

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- (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
 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 Banning 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 non-sworn supervisory personnel shall attend an approved supervisory course that includes training on the completion of performance evaluations within one year of the supervisory appointment.

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.

1002.3.1 RESERVE OFFICER EVALUATIONS

Reserve officer evaluations are covered under the Reserve Officers Policy.

1002.4 FULL TIME PROBATIONARY PERSONNEL

All civilian personnel except dispatchers are on probation for six months before being eligible for certification as regular employees. The probationary period for all civilian Dispatchers is one year. An evaluation is completed monthly for all full-time civilian personnel during the probationary period.

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Sworn personnel are on probation for one year before being eligible for certification as regular employees. Trainee officers are evaluated based on California P.O.S.T. requirements.

1002.5 FULL-TIME REGULAR STATUS PERSONNEL

Regular employees are subject to two types of performance evaluations:

Regular - A Report of 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 a Report of Performance Evaluation shall be completed on the anniversary of the employee's date of last promotion.

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 an employee is transferred during their evaluation period and less than half of that period is in their current position, the employee's last supervisor will complete the evaluation, after receiving input from the employee's current supervisor.

When completing the 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:

Outstanding - Is actual performance well beyond that required for the position. It is exceptional performance, definitely superior or extraordinary.

Exceeds Standards - Represents performance that is better than expected of a fully competent employee. It is superior to what is expected, but is not of such rare nature to warrant outstanding.

Meets Standards - Is the performance of a fully competent employee. It means satisfactory performance that meets the standards required of the position.

Needs Improvement - 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.

Unsatisfactory - Performance is inferior to the standards required of the position. It is very inadequate or undesirable performance that cannot be tolerated.

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 below standard, unsatisfactory or exceeds standards shall be substantiated in the rater comments section.

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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. The supervisor should discuss the results of the just completed rating period and clarify any questions the employee may have. Areas needing improvement and goals for reaching the expected level of performance should be identified and discussed. The supervisor should also provide relevant counseling regarding advancement, specialty positions and training opportunities. The supervisor and employee will sign and date the evaluation. Regular employees may also write comments in the Employee Comments section of the performance evaluation report.

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 completes the first draft of the evaluation, he/she will forward the evaluation to the rater's supervisor (Division Lieutenant). The Division Lieutenant shall review the evaluation for fairness, impartiality, uniformity, and consistency. The Division Lieutenant 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 Department of Human Resources.

Promotional and Transfer Policy

1004.1 PURPOSE AND SCOPE

The purpose of this policy is to establish required and desirable qualifications for promotion within the ranks of the Banning Police Department.

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.

1004.1.2 AUTHORITY FOR PROMOTIONS

The Chief of Police has the sole authority to promote personnel within the Department.

1004.1.3 REQUIREMENTS FOR PROMOTION

A Department member shall meet the requirements for the position prior to the final filing date for the position.

1004.1.4 PROMOTIONAL TESTING

Only qualified members will be allowed to take a promotional examination.

Once Department testing begins and through its conclusion, Department members shall not share, distribute, or discuss any information pertaining to written and oral examinations that would give another testing candidate an unfair advantage.

1004.1.5 PROMOTIONAL DISQUALIFICATIONS

Any member of the Department with a current less than competent evaluation may not apply for nor be granted a promotion.

1004.1.6 PROMOTIONAL SPECIFICATIONS

Specifications for promotional opportunities are on file with the City of Banning Personnel Office.

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Promotional and Transfer Policy

1004.2 PERSONNEL TRANSFERS

The following positions are considered transfers and are not considered promotions:

- (a) Detective Sergeant
- (b) Detective
- (c) Community Relations/Press Information Officer
- (d) Traffic/Motor Officer
- (e) School Resource Officer
- (f) Youth Accountability Team
- (g) K-9 Officer
- (h) G.R.E.A.T. Officer
- (i) Any other assignment, determined to be appropriate and approved by the Chief of Police in consultation with the Human Resources Department.

1004.2.1 TRANSFER PROCESS

Transfer or assignment within the Department is made in the following priority:

- (a) Departmental need.
- (b) Career development of the employee.
- (c) Personal request of the employee.

Transfers are made at the discretion of the Department.

1004.2.2 TRANSFER APPLICATION

A transfer to a special assignment may be applied for at any time by an employee. The transfer request shall be made in writing in a department memorandum. The request shall be directed to the employee's current Division Lieutenant and shall follow the chain-of-command. The request shall be countersigned by the supervisor and other persons in the command, and shall not be stopped or delayed for any reason without approval of the member submitting the request.

Included in the transfer request should be information on the employee outlining why they are interested in the special assignment, why they feel they would be effective in that position, and any previous experience and/or training relative to that assignment.

Request for transfers will be kept on file in Police Administration for one year after date of the submission. After expiration of the request, it shall be the employee's responsibility to renew the request. Any employee may withdraw a transfer request at any time. A recall of a transfer request shall be made in writing.

1004.2.3 TRANSFER APPOINTMENTS

Transfer appointments are made with the approval of the Chief of Police or his designee.

1004.3 CRITERIA FOR SELECTION TO MASTER SERGEANT

The qualifications to obtain the rank of Master Sergeant are:

- (a) 60 college semester units or the equivalent in quarter units and/or an AA degree.
- (b) Successful completion of the Sherman Block Leadership Institute. (SLI)

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- (c) Competent Evaluation.
- (d) Three years of supervisory experience with the Banning Police Department.
- (e) Possession of a POST Supervisory Certificate.
- (f) Two years experience as a Staff Sergeant

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

Except as otherwise required under a collective bargaining agreement, if an employee believes that he or she has a grievance as defined above, then that employee shall observe the following procedure:

- (a) Attempt to resolve the issue through informal discussion with immediate supervisor.
- (b) If after a reasonable amount of time, generally seven days, the grievance cannot be settled by the immediate supervisor, the employee may request an interview with the Division Lieutenant of the affected division or bureau.
- (c) If a successful resolution is not found with the Division Lieutenant, the employee may request a meeting with the Chief of Police.
- (d) If the employee and the Chief of Police are unable to arrive at a mutual solution, then the employee shall proceed as follows:
 1. Submit in writing a statement of the grievance and deliver one copy to the Chief of Police and another copy to the immediate supervisor and include the following information:
 - (a) The basis for the grievance (i.e., what are the facts of the case?).
 - (b) Allegation of the specific wrongful act and the harm done.
 - (c) The specific policies, rules or regulations that were violated.

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- (d) What remedy or goal is being sought by this grievance.
- (e) The employee shall receive a copy of the acknowledgment signed by the supervisor including the date and time of receipt.
- (f) The Chief of Police will receive the grievance in writing. The Chief of Police and the City Manager will review and analyze the facts or allegations and respond to the employee within 14 calendar days. The response will be in writing, and will affirm or deny the allegations. The response shall include any remedies if appropriate. The decision of the City Manager is considered final.

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 Administration 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 Chief of Police or his/her designee 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 findings shall be documented in a confidential and generic memorandum 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 designee should promptly notify the Chief of Police.

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 Administration 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 Administration 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 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.

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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.

Alcohol and Drug Use Policy

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 Department of Human Resources, 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.
- (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:

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- (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 Reporting

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).

Sick leave is not considered vacation and abuse of sick leave may result in discipline.

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 shall notify the Watch Commander 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.

Absent an emergency or the inability to verbally communicate, due to a medical condition, employees shall make their own sick leave notifications.

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.

Per § 348.2.4 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 from court.

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Sick Leave Reporting

1014.3 EXTENDED ILLNESS

Employees absent from duty due to illness/injury in excess of three consecutive days shall furnish a statement from their physician upon returning to work. Nothing in this section precludes a supervisor, with cause, from requiring a physician's statement if three or fewer sick days are taken.

Employees absent from duty in excess of one week based on an off-duty illness or injury shall be required to maintain contact with the Department's Administration through the following manner:

- (a) Employees shall contact the Administrative Secretary between 0800 and 0830 hours on the last Friday of each pay period to confirm their status for time-card completion purposes.
- (b) Employees shall provide a phone number, with message taking capabilities, they can be reached at between the hours of 0800-1700, Monday through Friday, excluding holidays. Employees shall return phone messages within 24 hours by speaking with the department representative who left the message. Messages left the day before a weekend or holiday shall be responded to on the next normal work day.
- (c) Employees who do not have a phone, with message taking capabilities, shall contact the Department's Communication Center on a daily basis, Monday through Friday, between 0800 and 0830 hours, excluding holidays for messages or directions from Department Administration.
- (d) The Chief of Police or his designee has the ability to waive this policy based on the severity of employees illnesses/injuries and their ability to use a phone.

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.

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:

- (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.

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- (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.

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

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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 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.

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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 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,

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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 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.

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- (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 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.

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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.
- (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 Banning 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:

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- (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).
- (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.

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 Banning Police Department facilities or vehicles.

1018.2 POLICY

The Banning 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 Banning Police Department to restrict 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.).

Personnel Complaints

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 Professional Standards 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 Professional Standards 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.

1020.2 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1020.2.1 AVAILABILITY OF COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public lobby. Forms may also be available at other government facilities.

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1020.2.2 SOURCE OF COMPLAINTS

- (a) A department employee becoming aware of alleged misconduct shall immediately notify a supervisor.
- (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.

1020.2.3 ACCEPTANCE OF COMPLAINTS

A complaint may be filed in person, in writing, or by telephoning the Department. Although not required, every effort should be made to have the complainant appear in person. The following should be considered before taking a complaint:

- (a) Complaints shall not be prepared unless the alleged misconduct or job performance is of a nature which, if true, would normally result in disciplinary action
- (b) When an uninvolved supervisor or the Watch Commander determines that the reporting person is satisfied that their complaint required nothing more than an explanation regarding the proper/improper implementation of department policy or procedure, a complaint need not be taken
- (c) When the complainant is intoxicated to the point where his/her credibility appears to be unreliable, identifying information should be obtained and the person should be provided with a Personnel Complaint form
- (d) Depending on the urgency and seriousness of the allegations involved, complaints from juveniles should generally be taken only with their parents or guardians present and after the parents or guardians have been informed of the circumstances prompting the complaint

1020.2.4 COMPLAINT DOCUMENTATION

Formal complaints of alleged misconduct shall be documented by a supervisor on a personnel complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

A supervisor may elect to document informal complaints as a supervisor or Watch Commander log entry.

When a Personnel Complaint form is completed in person, the complainant should legibly write a detailed narrative of his/her complaint. If circumstances indicate that this is not feasible, the complaint may be dictated to the receiving supervisor. In an effort to ensure accuracy in any complaint, it is recommended that a recorded statement be obtained from the reporting party. A refusal by a party to be recorded shall not alone be grounds to refuse to accept a complaint. Whether handwritten or dictated, the complainant's signature should be obtained at the conclusion of the statement. The complainant should be provided with a copy of his/her own original complaint per Penal Code § 832.7.

1020.3 SUPERVISOR RESPONSIBILITY

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation. Moreover, supervisors shall also maintain the ability to engage in the interrogation of an employee in the normal course of duty, counseling, instruction, or informal verbal admonishment, or other routine or unplanned contact (Cal. Govt. Code 3303(i)).

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In general, the primary responsibility for the investigation of a personnel complaint shall rest with the employee's immediate supervisor. The Chief of Police or authorized designee may, however, direct that another supervisor investigate it. The supervisor shall be responsible for the following:

- (a) A supervisor receiving a formal complaint involving allegations of a potentially serious nature shall ensure that the Watch Commander, Commanding Officer and Chief of Police are notified as soon as practicable.
- (b) A supervisor receiving or initiating any formal complaint shall ensure that a Personnel Complaint form has been completed as fully as possible. The original complaint form will then be directed to the Commanding Officer of the accused employee, via the chain of command, who will take appropriate action or forward the complaint to the Professional Standards Unit for further action.
 1. During the preliminary investigation of any complaint, the supervisor should make every reasonable effort to obtain names, addresses and telephone numbers of additional witnesses.
 2. Once immediate medical attention has been provided, photographs of alleged injuries as well as accessible areas of non-injury should be taken.
 3. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the employee's Division Commander or the Chief of Police who will initiate appropriate action.
- (c) A supervisor dealing with an accused employee shall ensure that the procedural rights of the employee are followed pursuant to Government Code § 3303, et seq.
- (d) When the nature of a personnel complaint relates to sexual, racial, ethnic, or other forms of prohibited harassment or discrimination, the supervisor receiving the complaint shall promptly contact the Department of Human Resources and the Chief of Police for direction regarding their role in investigation and/or addressing the complaint.

1020.4 ASSIGNMENT TO ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature or when circumstances practically dictate that it would impose an unreasonable risk to the Department, the employee, other employees or the public, a supervisor may assign the accused employee to inactive duty pending completion of the investigation or the filing of administrative charges.

1020.4.1 ADMINISTRATIVE LEAVE

An employee placed on administrative leave may be subject to the following guidelines:

- (a) Under such circumstances, an employee placed on administrative leave shall continue to receive regular pay and benefits pending the imposition of any discipline
- (b) An employee placed on administrative leave may be required by a supervisor to relinquish any badge, departmental identification, assigned weapon(s) and any other departmental equipment
- (c) An employee placed on administrative leave may be ordered to refrain from taking any action as a departmental employee or in an official capacity. The employee shall be required to continue to comply with all policies and lawful orders of a supervisor
- (d) An employee placed on administrative leave is temporarily reassigned to a 40 hour work week (Mon-Fri, 9-5 P.M.) excluding holidays, during the pendency of the

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investigation. The employee is required to remain available for contact at all times during such shift and report as ordered

- (e) It shall be the responsibility of the assigning supervisor to promptly notify the employee's Division Lieutenant and the Chief of Police
- (f) At such time as any employee placed on administrative leave is returned to full and regular duty, the employee shall be returned to their regularly assigned shift with all badges, identification card and other equipment returned

1020.4.2 REPORTING REQUIREMENTS DURING ADMINISTRATIVE LEAVE

Employees placed on administrative leave shall be required to maintain contact with the Department's Administration through the following manner:

Employees shall provide a phone number to Department Administration and be available for calls between the hours of 0900-1700, Monday through Friday, excluding holidays. Additionally, Monday through Friday, excluding holidays, between 0900-0930, employees on administrative leave shall call an assigned person, determined by the Chief of Police, to check in for any administrative instructions regarding their status. The Chief of Police or his designee has the ability to add to or waive this policy based on the needs of the Department and the reason for the administrative leave.

1020.5 ALLEGATIONS OF CRIMINAL CONDUCT

Where an employee of this department is accused of potential criminal conduct, a separate supervisor or assigned detective shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practical when an employee is formally accused of criminal conduct. In the event of serious criminal allegations, the Chief of Police may request a criminal investigation by an outside law enforcement agency.

An employee accused of criminal conduct shall be provided with all rights and privileges afforded to a civilian and the employee may not be administratively ordered to provide any information to a criminal detective.

No information or evidence administratively coerced from an employee may be provided to a criminal detective.

Any law enforcement agency is authorized to release information concerning the arrest or detention of a peace officer, which has not led to a conviction, however, no disciplinary action, other than paid administrative leave shall be taken against the accused employee based solely on an arrest or crime report (Labor Code § 432.7(b)). An independent administrative investigation shall be conducted based upon the allegations in the report in accordance with department policy.

1020.6 ADMINISTRATIVE INVESTIGATION OF COMPLAINT

Whether conducted by a supervisor or an assigned member of the Professional Standards Unit, the following procedures shall be followed with regard to the accused employee(s):

- (a) Interviews of accused employees shall be conducted during reasonable hours and, if the employee is off-duty, the employee shall be compensated (Government Code § 3303(a)).

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- (b) No more than two interviewers may ask questions of an accused employee (Government Code § 3303(b)).
- (c) Prior to any interview, an employee shall be informed of the nature of the investigation (Government Code § 3303(c)).
- (d) All interviews shall be for a reasonable period and the employee's personal needs shall be accommodated (Government Code § 3303(d)).
- (e) No employee shall be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers. Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively or be subject to discipline for insubordination. Nothing administratively ordered may be provided to a criminal investigator (Government Code § 3303(e)).
- (f) Absent circumstances preventing it, the interviewer should record all interviews of employees and witnesses. The employee may also record the interview. If the employee has been previously interviewed, a copy of that recorded interview shall be provided to the employee prior to any subsequent interview (Government Code § 3303(g)).
- (g) If the allegations involve potential criminal conduct, the employee shall be advised of his/her Constitutional rights pursuant to *Lybarger*. This admonishment shall be given administratively whether or not the employee was advised of these rights during any separate criminal investigation. (Government Code § 3303(h)).
- (h) All employees subjected to interviews that could result in punitive action shall have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual employee's statement, involved employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed (Government Code § 3303(i)).
- (i) All employees shall provide complete and truthful responses to questions posed during interviews.
- (j) No employee may be compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Government Code § 3307).

1020.6.1 ADMINISTRATIVE SEARCHES

Any employee may be compelled to disclose personal financial information pursuant to proper legal process; if such information tends to indicate a conflict of interest with official duties, or, if the employee is assigned to or being considered for a special assignment with a potential for bribes (Government Code § 3308).

Employees shall have no expectation of privacy when using telephones, computers, radios or other communications provided by the Department.

Assigned lockers and storage spaces may only be administratively searched in the employee's presence, with the employee's consent, with a valid search warrant or where the employee has been given reasonable notice that the search will take place (Government Code § 3309).

All other departmentally assigned areas (e.g., desks, office space, assigned vehicles) may be administratively searched by a supervisor, in the presence of an uninvolved witness, for non-investigative purposes. (e.g., obtaining a needed report or radio). An investigative

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search of such areas shall only be conducted upon a reasonable suspicion that official misconduct is involved.

1020.6.2 ADMINISTRATIVE INVESTIGATION FORMAT

Investigations of personnel complaints shall be detailed, complete and essentially follow this format:

Introduction - Include the identity of the employee(s), the identity of the assigned investigator(s), the initial date and source of the complaint.

Synopsis - Provide a very brief summary of the facts giving rise to the investigation.

Summary Of Allegations - List the allegations separately (including applicable policy sections) with a very brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

Evidence As To Each Allegation - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of employee and witness statements. Other evidence related to each allegation should also be detailed in this section.

Conclusion - A recommendation regarding further action or disposition should be provided.

Exhibits - A separate list of exhibits (recordings, photos, documents, etc.) should be attached to the report.

1020.7 DISPOSITION OF PERSONNEL COMPLAINTS

Each allegation shall be classified with one of the following dispositions:

Unfounded - When the investigation discloses that the alleged act(s) did not occur or did not involve department personnel. Complaints which are determined to be frivolous will fall within the classification of unfounded (Penal Code § 832.5(c)).

Exonerated - When the investigation discloses that the alleged act occurred, but that the act was justified, lawful and/or proper.

Not Sustained - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the employee.

Sustained - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

If an investigation discloses misconduct or improper job performance which was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

1020.8 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

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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.

1020.8.1 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.).

Sustained complaints shall be maintained in the employee's personnel file. Complaints which are unfounded, exonerated or not sustained shall be maintained by the Professional Standards Unit apart from the employee's personnel file.

Seat Belt Procedure

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 Banning 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 Administration supervisor shall ensure that body armor is issued to all officers when the officer begins service at the Banning Police Department and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

The Administration 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) Officers shall wear body armor anytime they are in a situation where they could reasonably be expected to take enforcement action.
- (c) 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.
- (d) Body armor shall be worn when an officer is working in uniform or taking part in Department range training.
- (e) 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 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

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(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.

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:

Department File - That file which is maintained by the office of the Chief of Police in the Department's Records Bureau as a permanent record of a sworn officer's employment with this department.

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.

Supervisor Log Entries - Any written comment, excluding actual performance evaluations, made by a supervisor concerning the conduct of an employee of this department.

Training File - Any file which documents the training records of an employee.

Internal Affairs Files - Those files that contain complaints of employee misconduct and all materials relating to the investigation into such allegations, regardless of disposition.

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

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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 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.

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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

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 Training Sergeant or immediate supervisor with evidence of completed training/education in a timely manner.
 - 2. The Training Sergeant or supervisor shall ensure that copies of such training records are placed in the employee's department file.
- (c) Disciplinary action:
 - 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

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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.
 - 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 Professional Standards Unit 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 supervisor of the Professional Standards Unit. 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., yy-001, yy-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 Training Section for each employee. Training files will contain records of all training and education mandated by law or

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the Department, including firearms qualifications and mandated annual proficiency requalification.

- (a) It shall be the responsibility of the involved employee to provide the Training Sergeant or immediate supervisor with evidence of completed training/education in a timely manner.
- (b) The Training Sergeant 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.
- (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.

Officer Shift Rotation

1027.1 OFFICER SHIFT ROTATION

The guidelines for this policy will adhere to Article 10 (Work Hours) found in the most current Memorandum of Understanding between the City of Banning and the City of Banning Police Officers' Association.

Request for Change of Assignment

1028.1 PURPOSE AND SCOPE

It is the intent of the Department that all requests for change of assignment are considered equally. 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.

1028.2 REQUEST FOR CHANGE OF ASSIGNMENT

Banning Police personnel wishing a change of assignment are to complete a memorandum requesting consideration for the reassignment. The memorandum should then be forwarded through the chain of command to their Division Lieutenant.

1028.2.1 PURPOSE OF MEMO

The memorandum is designed to aid employees in listing their qualifications for specific assignments. All relevant experience, education and training should be included when completing this form.

The memorandum shall include a listing of all assignments an employee is interested in.

The written request for change of assignment will remain in effect until the end of the calendar year in which it was submitted. Effective January 1st of each year, employees still interested in new positions will need to complete and submit a new Change of Assignment Request form.

1028.3 SUPERVISOR'S COMMENTARY

The officer's immediate supervisor shall make appropriate comments in the space provided on the form before forwarding it to the Division Lieutenant of the employee involved. In the case of patrol officers, the Watch Commander must comment on the request with his/her recommendation before forwarding the request to the Division Lieutenant. If the Watch Commander does not receive the Change of Assignment Request Form, the Division Lieutenant will initial the form and return it to the employee without consideration.

Commendations and Awards

1029.1 PURPOSE AND SCOPE

To develop a procedure to formally recognize and honor Police Department personnel, members of other law enforcements agencies, and private citizens who have preformed commendable acts or services for the Department or for their fellow citizens.

1029.1.1 POLICY

The Department shall strive to officially recognize and honor persons who have performed commendable acts and/or services for the Department or community. Recognition, in the form of Department awards, shall be approved under clear guidelines and criteria. An application for an award should be submitted when the commendable act has clearly met or exceeded award criteria within this directive. Award submissions that are deemed to be marginal may be reduced to a lower award level by the committee or at the Chief's discretion.

The Department Awards Committee will be responsible for reviewing the actions of those nominated and for making recommendations to the Chief. The review of those actions will occur during December of each year and will include reviewing any submitted recommendations through the end of the calendar year.

1029.2 AWARD RECOMMENDATIONS

Applications for formal Department awards may be initiated, completed, or submitted by any member of the Department. An awards application shall be accompanied by a detailed account of the incident including any reports or supporting documentation. The recommendation shall be made on the appropriate Department application form and forwarded to Police Administration via chain of command. Any member within that chain-of-command may make or attach comments regarding the recommendation for consideration by the Awards Committee during the review process.

It is the responsibility of the Chief of Police or his designee to designate employees to serve on the Department Awards Committee and shall be responsible for award submissions for their respective operation. Upon receiving award applications, the Chief of Police or his designee shall:

1029.2.1 REVIEW THE RECOMMENDATION AND SUPPORTING DOCUMENTATION

After review by the Chief of Police or his designee, shall submit all award recommendation(s) to the Department Awards Committee for consideration. The Committee will maintain and archive all locally submitted award applications in police administration and attend scheduled meetings with Department Awards Committee members as needed.

1029.3 AWARDS COMMITTEE

The Awards Committee, appointed annually by the Chief, shall review and evaluate all applications for formal awards. It shall be the responsibility of the Awards Committee to collectively evaluate the submitted applications to ensure appropriateness of the recommendations and to ensure that the criteria have been met. The Awards Committee shall convene during December of each year. The Awards Committee will forward all

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recommendations regarding award applications to the Chief for review and approval. The Chief shall have final decision regarding any award and may at his/her discretion modify or reject any recommendation. The Awards Committee shall be chaired by the Chief of Police's designee.

1029.3.1 PRESENTATION OF AWARDS

It shall be the responsibility of the Awards Committee to coordinate the preparation and presentation of the Department awards.

All presentation medals and civilian commendations shall be accompanied by certificates, which describe the circumstance warranting recognition. Each certificate, letter of commendation, or letter of appreciation shall contain a synopsis of the event(s) meriting the award.

1029.4 AWARD DEFINITIONS

(a) Medal of Honor

1. This award is a round silver leafed medallion with a 4 point gold medal in the center with the words "Medal of Honor," across the top of the state seal, with "Banning Police Department" underneath. A golden eagle is attached to the top portion of the silver medallion. A red/white/blue ribbon is suspended from the medal. This medal is accompanied by a red/white/blue ribbon bar. The medal will have the California State seal affixed to the center.
2. The Medal of Honor is given posthumously to a Department member who dies from injuries received while on-duty or acting in an official capacity as a member of the Banning Police Department. The Medal of Honor shall recognize and honor those who made the ultimate sacrifice while serving the citizens of the City of Banning.
3. Deaths not resulting from an injury shall be evaluated for its connection to a prior injury meeting the award's established criteria. To be considered, the injury must be a direct contributing factor, but not necessarily the only contributing factor to the resulting death. A Department member succumbing to a long term deteriorating medical condition may be considered for this award, so long as the medical condition contributing to the death resulted from an injury meeting the award's criteria. The Medal of Honor will be presented to surviving family members.

(b) Medal of Valor

1. This award is a gold starburst suspended from a blue/white/red ribbon attached, inscribed with the word's "Medal of Valor." Below the words, medal of valor and above the state seal, will be "Banning." Below the state seal will be "Police Dept." The metal is accompanied by a blue/white/red ribbon bar. The medal will have the California State seal affixed to the center.
2. The Medal Valor is the Department's highest award and may be awarded to Department members who distinguish themselves by conspicuous under exigent, or life-threatening conditions, and consciously perform acts of bravery or other outstanding feats while facing imminent danger.
3. There must be no margin of doubt in awarding this award. The Department member's act or acts must be so outstanding that it clearly distinguishes their gallantry and intrepidity beyond the call of duty, and is distinguishable from lesser forms of bravery or courage for which the Department's "Medal of

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Courage" award would be most appropriate. The act or deed if not done or performed, would not have subjected the Department member to any justified criticism. The act or deed in its totality must be without detriment or controversy to the mission and traditions of the Department.

(c) **Medal of Courage**

1. This award is a round gold leafed medallion with a 4 point gold medal in the center, with the word "Courage" on the top. Below the word courage and above the state seal will be the word "Banning." Below the state seal will be the words "Police Dept." The medal will have the California State seal affixed to the center. The medal will be suspended from a blue/white/blue ribbon. The medal is accompanied by a blue/white/blue ribbon bar.
2. The Medal of Courage is awarded to Department members who distinguish themselves by acts of heroism performed at great personal risk of life or limb. These acts shall demonstrate great courage while facing extreme danger, but to a lesser degree than required for the Medal of Valor. The act or deed in its totality must be without detriment or controversy to the mission and traditions of the Department.
3. The Medal of Courage may be awarded to a member of another law enforcement agency who, while assisting this department, performs in the above-described manner.

(d) **Lifesaving Award**

1. This award is a round silver medallion with a silver wreath on the outer edges and suspended from a white/light blue/white/light blue ribbon, inscribed with the word "Lifesaving" between the wreath and the state seal. Beneath the state seal will be the words "Banning Police Dept." The medal will have the California State seal affixed to the center. The medal is accompanied by a white/light blue/white/light blue ribbon bar.
2. The Lifesaving Award will be awarded to Department members who distinguish themselves by personally performing acts that save human lives which otherwise may have resulted in death. The acts need not be performed under conditions requiring bravery or exposure to great personal risk. To be considered, the person having been saved need not to sustain life in long term, but by the deliberate act of the Department member, must have been prevented from dying at the time and place that the act or aid was performed and that life was substantially prolonged as a result of the act or aid performed.
3. The Lifesaving Award may be awarded to a member of another law enforcement agency who, while assisting this Department, performs an act, which results in the saving of a human life.

(e) **Distinguished Service Award**

1. This award is a silver star burst with the California State seal in the center. Above the state seal inscribed with the words "Distinguished Service". Below the state seal inscribed with the words "Banning Police Dept". The medal is suspended from a blue ribbon. The medal is accompanied by a blue ribbon bar.
2. The Distinguished Service Medal is awarded to members of this Department who have demonstrated exceptional meritorious service over a prolonged period. This award is not intended to recognize length of service per se. The demonstrated achievements and exceptional performance of duty shall clearly be above that which would normally be expected, given the members rank and

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assignment, and shall contribute materially to the mission and success of the Department.

(f) **Medal of Merit**

1. This award is an 8 sided gold medallion with raised outer edges, the California State seal in the center, suspended on a ribbon with yellow in the center, thin light blue stripes on both edges and a thin red stripe between the yellow and light blue. Centered on the medallion is a silver bar inscribed with the words "Medal of Merit" inscribed at the top and "Banning Police Department" along the bottom. The medal is accompanied by a yellow stripe in the center, thin light blue stripes on both edges and a thin red stripe between the yellow and light blue ribbon bar.
2. The Medal of Merit is awarded to Department members who perform a superior accomplishment, which results in a significant contribution to the mission, success or efficient operation of the Department. Such accomplishments may result from a single act of exceptional personal contribution during a critical time or incident, or that, which results in major improvements in technology, organization, or Department procedures.
3. This award shall be distinguished from that of the Chief's Commendation Award in that the act or accomplishment shall be of an extraordinary and superior nature and shall unequivocally contribute to the mission and success of the Department.
4. The Medal of Merit may be awarded to a member of another law enforcement agency who performs a superior accomplishment for the Department.

(g) **Chief's Purple Heart**

1. This award is a heart shaped pendant with a Purple Heart center. The outer edges will be gold colored. A gold colored strip attached at the top portion of the medal inscribed with the words "Purple Heart" and a small red/white/blue crest below the words. A purple ribbon with thin white edges attached to the top portion of the medal. The medal is accompanied by a purple with thin white edged ribbon bar.
2. The Chief's Purple Heart recognizes a Department member who, while acting in an official capacity, is wounded or injured as the result of a hostile or life threatening encounter. To be considered, the wound or injury need not be a physical lesion or visible contusion, but shall require treatment from a competent treating authority given the nature and seriousness of the wound or injury.

(h) **Chief's Commendation-Chief's Level**

1. The Chief's Commendation-Chief's Level is a framed certificate presented by the Chief at the Department's award banquet. The certificate will be presented with the recipients name and year awarded.
2. The Chief's commendation certificate is awarded to Department members who perform an outstanding act or acts of service, which assist the Department in fulfilling its objectives, or demonstrate exceptional job performance, or materially contribute to the Department's mission. Such acts shall be evaluated on the basis of being above and beyond normal job requirements accomplished with perseverance, tenacity, and dedication to duty.

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3. The Chief's Commendation may be awarded to anyone; Department member, member of another law enforcement agency, member of a public service entity, or civilian who performs in the above described manner.

(i) **Chief's Commendation-Command Level**

1. The Chief's Commendation-Command Level is a framed certificate signed by the Chief and is awarded by the Deputy Chief or Lieutenant at the command level. It shall describe the actions for which the award is given.
2. The Chief's Commendation-Command Level certificate is awarded to Department members who perform an outstanding act or acts of service, which assists the Department in fulfilling its objectives, or demonstrates excellent job performance, or materially contributes to the Departments mission. Such acts shall be evaluated on the basis of being above and beyond normal job requirements.
3. The Chief's Commendation may be awarded to anyone; Department member, member of another law enforcement agency, member of a public service entity, or civilian who performs in the above described manner.

(j) **Unit Citation Award**

1. A unit citation award for outstanding performance may be conferred upon an organizational unit of the Department. The Accomplishment must be the result of a combined effort of the unit. The award consists of a certificate, a maroon and white ribbon bar.
2. Note: Individual members of the unit who contribute substantially to the success of the unit may, in addition, be submitted for individual recognition or award, when such contribution meets the criteria for an award.

(k) **Humanitarian Service Award**

1. The Human Service Award is a certificate which will be awarded to Department members who, without direction of the Department or as a matter of duty or expectation of assignment, actively and substantially participates in organizations or causes, whose sole purpose and mission is humanitarian in nature. To be considered for this award, Department members need not contribute monetarily nor be given consideration for recognition based solely on monetary contributions. Nominees must be recognized as substantially instrumental to the success of the organization or cause, as verified by the organization or others with first hand knowledge. Nominations for this recognition can be made by Department members or by members of the public. The Chief shall award this recognition at his/her discretion.

(l) **Citizen Awards**

1. **Distinguished Service Award**

- (a) This award is an 8 sided gold medallion with raised outer edges, the California State seal in the center, suspended on a ribbon with blue in the center, thin orange stripes on both edges and a thin white stripe between the blue and orange stripes. Centered on the medallion is a silver bar inscribed with the words "Distinguished Service" inscribed at the top and "Banning Police Department" along the bottom. The medal is accompanied by a blue stripe in the center, thin orange stripes on both edges and a thin white stripe between the blue and orange stripe, ribbon lapel bar suitable for wearing on civilian dress attire.

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- (b) The Distinguished Service award is the Department's highest civilian honor. Recipients of this award shall be selected by the Chief. This award is presented to private citizens for a single act or acts of distinguished service involving great risk of personal injury to one self or others or an act of meritorious service of major contribution to the Department or community, which exemplifies and fulfills the Department's objective's.

2. Community Service Award

- (a) This award is a round silver medallion with a silver wreath on the outer edges and suspended from a white/blue/white ribbon, inscribed with the word "Community Service" between the wreath and the state seal. Beneath the state seal will be the words "Banning Police Department." There is no ribbon bar for this award.
- (b) The Community Service award is the Department's second highest civilian honor. This award is presented to private citizens for exceptional community service, which assist the Department in fulfilling its objectives. The exceptional community service may involve a single act or acts, or result from sustained exceptional commitment and dedication to community service.

3. Special Class Recognitions

- (a) The Chief may recognize those employees and volunteers who, by classification or assignment, exemplify all of the qualities, attributes and characteristics of their class. To be considered, those who are nominated must have distinguished themselves apart from all others, and must stand as an example for all to follow. Their contributions and accomplishments to the mission of the Department must be in keeping with the highest standards and traditions of the Banning Police Department.
- (b) The intent is not to recognize length of service nor is it recognize a specific deed, act or project. Rather, the intent is to recognize sustained exemplary performance throughout the award period.
- (c) These awards will be presented at the annual awards ceremony and will consist of a plaque with the persons name and year awarded. Categories of classes for recognition include, but are not limited to the following:
 - 1. Employee
 - 2. Classified Employee of the Year
 - 3. All classified employees are eligible, regardless of assignment
 - 4. Public Safety Communication Officers of the Year
 - 5. All Public Safety Communications Officers are eligible, regardless of assignment.
 - 6. Supervisor of the Year (All Department supervisors sworn and non-sworn (not classified as management), are eligible, regardless of assignment.
 - 7. Manager of the Year (All Department members, sworn or non-sworn, who are classified as management, are eligible, regardless of assignment.)
 - 8. Volunteers

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- (m) **Explorer of the Year (All explorer scouts in good standing are eligible, regardless of assignment.)**
- (n) **Reserve of the Year (All Reserve Police Officers, regardless of rank, level or assignment are eligible.)**
- (o) **Volunteer of the Year (All Department volunteers not listed in other volunteer classes for recognition are eligible, regardless of assignment.)**
- (p) **9-1-1 for Kids Hero Award**
 - 1. This award is given to children who call 911 to report a crime, help save lives or property. The purpose is to award children who have demonstrated an understanding of the proper use of the 911 system.
 - 2. Generally the program is designed for children 13 years of age or younger; however, exceptions may be considered under special circumstances.
 - 3. The 911 call must either be self initiated by the child and / or the child followed pre-arrival medical instructions, or performed some other heroic act. The award should be given to children who display courageous skills along with good judgment, above and beyond what would be expected of their specific age.
 - 4. When a dispatcher receives a 911 call from a child reporting a crime, the dispatcher can "lock" the call on the Vesta dispatch phone system. The dispatcher will then use the saved information and complete an awards application form with the time and date of the incident. The dispatcher will write a brief description of the incident, attach a printout of the incident and request a copy of the 911 call to be recorded for review purposes. The application will then be submitted to the awards committee for review.
 - 5. The program has its own website and has specific medals, certificates and a 911 Hero ceremony kit for this award. These awards will be purchased through the website. The awards committee will then recommend to the Chief, what award(s) combination will be given for each specific incident based upon the specifics of each incident.
 - 6. A series of multiple awards may be given at one time. It is recommended that awards be given at the recipient's school classroom or auditorium. Not only will this enhance the child's experience, but it will also provide an excellent opportunity to educate and promote the proper use of 911.
 - 7. The ceremony can also be adjusted for other venues as directed by the Chief. It is beneficial to include the press in these ceremonies to recognize the recipient's accomplishment. <http://www.911forkids.com/index.php>

Performance Improvement Program

1031.1 PURPOSE AND SCOPE

The policy of the Banning Police Department is that all employees are expected to perform in a competent manner in furtherance of the mission and objectives of the Department and in accordance with the law and the policies and procedures of the City of Banning and the Police Department.

1031.2 PERFORMANCE IMPROVEMENT PROGRAM ESTABLISHED

In furtherance of the Performance Improvement Program, the Department establishes this procedure whereby substandard/unacceptable performance can be identified and an appropriate program of corrective action can be established.

- (a) To accomplish this objective, this procedure is developed upon the following key criteria:
1. Identification of the substandard/unacceptable performance/behavior,
 2. Communication of the deficiencies to the employee,
 3. Formal documentation of the deficiency and the expected change(s), and
 4. Development of the document which specifies an action plan.
 5. Performance Improvement Programs are not intended to be disciplinary in nature and therefore will not be made a part of an employee's personnel file if the employee successfully completes the program.
 6. Failure to successfully complete the program, resulting in reduction in pay, demotion, or termination, will result in the inclusion of the program documentation in the employee's personnel file.
 7. Program documentation for cases involving successful completion of the program will be maintained in a separate file by the Office of the Chief of Police until such time as it may be disposed of per current City Council Resolution for records destruction.

1031.3 INITIAL SUPERVISORY CORRECTIONS

When minor policy infractions and/or performance deficiencies are noted for the first time, verbal counseling is the preferred method for corrective action.

- (a) When repeated policy infractions and/or performance deficiencies are noted, formal counseling sessions should be initiated. Such counseling sessions should be documented on the Supervisor's Log or memo.
- (b) The counseling session should address each policy infraction and/or performance deficiency which has been identified and the expected corrective action by the employee for each one.
- (c) The documentation of the counseling session should list each policy infraction and/or performance deficiency along with the expected corrective action.
- (d) Should formal counseling fail to correct the performance deficiency and/or ensure compliance with policy, a Performance Improvement Program shall be implemented.

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Performance Improvement Program

1031.4 PERFORMANCE IMPROVEMENT PROGRAM OVERVIEW

1031.4.1 THE PERFORMANCE IMPROVEMENT PLAN PROCESS INCLUDES

- (a) The supervisor prepares a draft Performance Improvement Plan (P.I.P).
- (b) The supervisor forwards the draft P.I.P. to his/her supervisor for approval. The draft P.I.P. will be forwarded through the chain-of-command to the Chief of Police for approval.
- (c) The supervisor discusses the draft P.I.P. with the employee and prepares the final version of the P.I.P.
- (d) The supervisor implements the Supervisory Assistance Sections and conducts follow-up counseling.
- (e) The supervisor completes the final progress report and forwards the completed file to the Division Lieutenant for review and approval.
- (f) Should punitive action be necessary; it will be implemented in accordance with the Department's Complaint Policy.

1031.4.2 HEADING

Standard memo headings shall be used:

TO: (Name of the affected employee)

FROM: (Name of the employee's supervisor)

Subject: FAILURE TO MEET PERFORMANCE STANDARDS

1031.4.3 PERFORMANCE STANDARDS AND HOW YOU FAILED TO MEET THEM

- (a) List each performance standard in which the employee is deficient. Example: "An employee shall be punctual in reporting for duty at the time and place specified by his superior. (Cite specific Manual Section)
- (b) List specifically and with detail each occasion where the employee failed to meet the listed standard.
- (c) Repeat this process for each standard.

1031.4.4 HOW TO IMPROVE YOUR PERFORMANCE

This section is a summary of the positive behavior the supervisor expects the employee to exhibit in order to be regarded as an acceptable employee.

1031.4.5 SUPERVISORY ASSISTANCE AND GUIDANCE

- (a) The supervisor sets a review schedule where the supervisor will review the progress of the employee with him/her. Such reviews will be done either weekly or bi-weekly.
- (b) The supervisor may direct the employee to obtain training and/or counseling when appropriate.

1031.4.6 TIME FRAME CONSEQUENCES

- (a) The supervisor will set the duration of the Performance Improvement Program.
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- (b) Normally, a Performance Improvement Program will be 90 days in length. The minimum specified time for such a program is 60 days and the maximum time is 120 days.
- (c) Should the employee progress at an accelerated rate, the Performance Improvement Program may be shortened from the specified time.
- (d) The consequences of failing to satisfactorily complete the Performance Improvement Program must be clearly stated. In most situations, the consequence will be termination for failure to meet the specified performance standards within the allotted time. When appropriate, demotion and reduction in pay may be administered.

1031.4.7 THE INITIAL INTERVIEW

- (a) The supervisor will address each performance deficiency identified in the Performance Improvement Plan along with the expected corrective behavior.
- (b) The supervisor should emphasize the objectives of the Performance Improvement Process as stated in this General Order.
- (c) The supervisor should advise the employee of the intent of the supervisor to assist the employee in his/her improvement.
- (d) The supervisor should encourage employee input and take appropriate notes concerning the employee's viewpoints. This information may be incorporated into the Performance Improvement Plan.
- (e) The supervisor will advise the employee of the review process and the schedule for the review sessions.
- (f) The supervisor will inform the employee of any outside training and/or counseling that is required as part of the Performance Improvement Program.
- (g) The supervisor will inform the employee of the consequences that may result in the event the employee fails to satisfactorily complete the Performance Improvement Program.

1031.4.8 FOLLOW-UP COUNSELING

- (a) During the duration of the Performance Improvement Program, the supervisor will meet in formal counseling sessions with the employee as specified in the Performance Improvement Plan.
- (b) The supervisor will review the employee's progress as it relates to each identified performance deficiency.
- (c) Appropriate reinforcement should be given to the employee depending on whether the employee is improving or not.
- (d) The counseling session will be documented in a Supervisor's Log.

1031.4.9 FINAL REPORT

- (a) At the end of the Performance Improvement Program, the supervisor shall prepare a final report regarding the employee's progress in the Performance Improvement Program.
- (b) When the employee successfully completes the program, the final report should reinforce the employee's improved performance and encourage continued acceptable performance.
- (c) In the event the employee does not successfully complete the program, the report should:

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1. Specify those standards the employee failed to achieve and how he/she failed to do so,
 2. State that the supervisor is recommending that the penalty contained in the Performance Improvement Plan as a consequence for non-improvement, be implemented. and
 3. Contain a detailed account of the employee's comments regarding the final report.
- (d) The Final Report along with all follow-up reports and other appropriate documentation will be forwarded via the chain-of-command, to the Chief of Police for review and appropriate action.

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).

1032.1.1 COVERED EMPLOYEES

The contents of this policy section apply to all department employees.

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 Lieutenant, 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.

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.

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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 Lieutenant, 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 Department of Human Resources 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 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

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Fitness for Duty

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.

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 officers shall take their breaks within the city limits unless on assignment outside of the city.

The time spent for the meal period shall not exceed the authorized time allowed by the employee's supervisor or as specified by the current MOU.

Meal periods should not be taken between the hours of 1400 and 1800 hours by officers working a patrol assignment.

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. No breaks shall be taken during the first or last hour of an employee's shift unless approved by a supervisor.

Employees normally assigned to the police facility shall remain in the police facility for their breaks. This would not prohibit them from taking a break outside the facility if on official business.

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 Dispatch 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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Lactation Break Policy

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

Time cards are submitted to Administration on a bi-weekly basis for the payment of wages.

1036.1.1 RESPONSIBILITY FOR COMPLETION OF TIME CARDS

Employees are responsible for the accurate and timely submission of time cards for the payment of wages. Completed time cards will be submitted to the employee's immediate supervisor who will review it for accuracy and forward it to the appropriate Division Lieutenant for review and approval.

1036.1.2 TIME REQUIREMENTS

All employees are paid on a bi-weekly basis usually on Friday with certain exceptions such as holidays. Time cards shall be completed and submitted to Administration no later than the beginning of the business day on the Monday time cards are due to Finance, unless specified otherwise.

Overtime Payment Requests

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 Understanding (MOU), 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 the authorized hours as stated in the current MOU.

Employees working overtime, funded through grants or sources other than city funds, shall be compensated in cash only.

1038.2 REQUEST FOR OVERTIME COMPENSATION

Employees shall submit all overtime compensation requests to their immediate supervisors as soon as practicable for verification and forwarding to the Administration Division.

Failure to submit a request for overtime compensation in a timely manner may result in discipline.

1038.2.1 EMPLOYEES RESPONSIBILITY

Employees shall complete the requests immediately after working the overtime and turn them in to their immediate supervisor or the Watch Commander. Employees submitting overtime cards for on-call pay when off duty shall submit cards to the Watch Commander the first day after returning for work.

1038.2.2 SUPERVISORS RESPONSIBILITY

The supervisor who verifies the overtime earned shall verify that the overtime was worked before approving the request.

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Overtime Payment Requests

After the entry has been made on the employee's time card, the overtime payment request form is forwarded to the employee's Division Lieutenant for final approval.

1038.2.3 DIVISION LIEUTENANT RESPONSIBILITY

Division Lieutenants, after approving payment, will forward the form to the City's Finance Department.

1038.3 ACCOUNTING FOR OVERTIME WORKED

Employees are to record the actual time worked in an overtime status. In some cases, the Salary Ordinance provides that minimum times will be paid, (e.g. two hours for Court, four hours for Outside Overtime). The supervisor will enter the actual time worked.

1038.3.1 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 overtime payment request.

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.

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 calendar year in which the permit is approved. Any employee seeking to renew a permit shall submit a new Outside Employment Application in a timely manner.

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)).

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).

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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:

- (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.

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.

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- (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 wear the departmental uniform/identification.
 - 2. The officer(s) shall be subject to the rules and regulations of this department.
 - 3. 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.
 - 4. Compensation for such approved outside security services shall be pursuant to normal overtime procedures.
 - 5. Outside security services shall not be subject to the collective bargaining process.
 - 6. 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.

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 assignment shall be required to complete all related reports in a timely manner pursuant to department policy. Time spent on the completion of such reports shall be considered incidental to the outside overtime assignment.

1040.3.3 SPECIAL RESTRICTIONS

Except for emergency situations or with prior authorization from the Division Commander, undercover officers or officers assigned to covert operations shall not be eligible to work overtime or other assignments in a uniformed or other capacity which might reasonably disclose the officer's law enforcement status.

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. This shall include the prohibition of access to 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.

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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 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 Banning Police Department, a request (in writing) may be made to the Chief of Police to restore the permit.

Extra Duty

1041.1 PURPOSE AND SCOPE

The purpose of this General Order is to adopt a policy creating a departmental procedure for handling requests by public and private entities for law enforcement services.

1041.1.1 POLICY

On occasion the Police Department is requested to provide additional law enforcement services to special events sponsored by public and private entities. The Department has classified these events as extra duty. The purpose of this procedure is to insure uniform application of extra duty requests and sign up procedures.

1041.1.2 DEFINITION

Extra duty is defined as the funding of Police personnel and equipment to provide law enforcement protection at a specific event of short duration.

- (a) These events may be one time only or may be on-going and pre-scheduled.
- (b) Extra Duty may be requested by private citizens, community service organizations, local, county, and state governments, church groups, and schools.

1041.2 EXTRA DUTY REQUEST PROCEDURE

Outside entities requesting police officers for extra duty events will complete and submit an Extra Duty Request Form available at the police department.

- (a) The request form will be accepted at the front counter of the police department and forwarded to a Lieutenant for review and processing.
- (b) The Lieutenant will review the request and forward it, with recommendations on personnel assignments, to the Chief of Police for final review and approval.
- (c) Both approved and denied requests will be forwarded back to the Lieutenant handling the request. The Lieutenant will contact the outside entity and either advise them that the request has been denied or if approved what the cost will be for the officers working the event.
 - 1. If approved, the outside entity will be responsible for providing payment for the assigned officer(s) prior to the event. The outside entity must submit a check to the Lieutenant handling the request, payable to the City of Banning, for the full cost of the officers.
- (d) The Lieutenant will submit a copy of the Extra Duty Request Form with the check to the Finance Department.
- (e) The Lieutenant or his designee is responsible for posting sign-ups for the extra duty event.

1041.3 OFFICER FEES FOR EXTRA DUTY

Refer to the existing Miscellaneous Police Department Fee Schedule adopted by the Banning City Council for the current fees for extra duty police services.

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1041.4 DUTY TIME

- (a) Arrival time at the location of the event will be the time indicated on the sign-up sheet at the location specified on the special events sign-up sheet.
 - 1. As an example, if sign-up is for a school function that starts at 1800 hours, the officer must be at the location at 1800 hours with all necessary equipment.
- (b) If the ending time is 2200 hours, the officer will finish his duties at the location at that time. If an officers EOW at the extra duty event is delayed, officers will notify the on-duty Watch Commander of the delay and submit a memo to the Lieutenant who coordinated the event indicating the length and reason for the delay. The Lieutenant will determine if the outside entity for the event is responsible for additional fees.

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 in writing on the report of injury form(s) provided to the employee or completed by the employee's supervisor. Copies of the completed form(s) will be forwarded to the employee's Division Lieutenant, the Department's Administrative Secretary, and the City's Personnel Director. An Employee's Claim for Workers' Compensation Benefits form shall be provided to the injured employee within 24 hours from the time the injury/illness was discovered, excluding weekends and holidays.

1042.2.2 ACCIDENT DEFINED

Accident - is defined as any occurrence from which bodily injury or property damage may result, regardless of whether any injury or damage actually does occur (e.g., exposure where no immediate injury is apparent).

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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Disciplinary action may be taken for an employee's failure to comply with his procedure.

1042.2.4 SUPERVISOR'S RESPONSIBILITY

A supervisor learning of any work-related injury, illness or accident shall promptly prepare the appropriate forms as outlined under Policy Manual § 1042.2. Updated copies of forms with instructions for completion provided by Risk Management are kept in the Sergeant's office.

For work-related accidents, injuries or illness not requiring professional medical care, a Supervisor's Report of Injury form shall be completed in triplicate. All copies of the completed form shall be forwarded to the supervisor's Division Lieutenant, through the chain of command.

When an accident, injury, or illness is reported initially on the Supervisor's Report of Injury form and the employee subsequently requires professional medical care, the State of California Employer's Report of Occupational Injury or Illness form shall then be completed. The injured employee shall also sign the form in the appropriate location.

Every injured employee must be provided with an Employee's Claim for Workers' Compensation Benefits Form (DWC-1) within 24 hours, regardless of the nature of illness or injury. Labor Code § 5400 makes failure to comply with the 24-hour reporting procedure a misdemeanor.

Copies of any reports documenting the accident or injury should be forwarded to the Division Lieutenant as soon as they are completed.

1042.2.5 DIVISION LIEUTENANT RESPONSIBILITY

The Division Lieutenant receiving a report of a work-related accident or injury should review the report for accuracy and determine what additional action should be taken. The report shall then be forwarded to the Chief of Police.

1042.2.6 CHIEF OF POLICE RESPONSIBILITY

The Chief of Police shall review and forward copies of the report to the Department of Human Resources. Any copies of the report and any related documents retained by the Department shall be filed in the employee's confidential medical file and not in the employee's personnel file (see Policy Manual § 1026).

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

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:

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1042.4.1 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/her supervisor as soon as possible.

1042.4.2 NO SETTLEMENT WITHOUT PRIOR APPROVAL

No less than ten (10) days prior to accepting and finalizing the settlement of any third party claim arising out of or related to an on duty injury, the employee shall provide the Chief of Police with written notice of the proposed terms of such settlement. In no case shall the employee accept a settlement without first providing such written notice to the Chief of Police. The purpose of such notice to permit the City to determine whether or not the offered settlement will affect any claim the City may have regarding payment for damage(s) to equipment or reimbursement for wages against the person who caused the accident or injury and to protect the City's right of subrogation, while ensuring that the employee's rights to receive compensation for injuries are not affected.

1042.5 REPORTING REQUIREMENTS FOR EMPLOYEES UNABLE TO WORK DUE TO WORK RELATED INJURIES

Employees injured on duty and requiring a relief from duty in excess of one week shall be required to maintain contact with the Department's Administration through the following manner:

- (a) Employees shall contact the Administrative Secretary between 0800 and 0830 hours on the last Friday of each pay period to confirm their IOD status for time-card completion purposes.
- (b) Employees shall provide a phone number with message taking capabilities they can be reached at between the hours of 0800-1700, Monday through Friday, excluding holidays. Employees shall return phone messages within 24 hours by speaking with the department representative who left the message. Messages left the day before a weekend or holiday shall be responded to before the end of the next regular work day.
- (c) Employees without a phone, with message taking capabilities, shall contact the Department's Communication Center on a daily basis, Monday through Friday, between 0800 and 0830 hours, excluding holidays for messages or directions from Department Administration.
- (d) The Chief of Police or his designee has the ability to waive this policy based on the severity of employees injuries and their ability to use a phone.

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 horizontal level of the bottom of the uniform patch when the employee is standing erect, worn up or in a tightly wrapped braid or ponytail.

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 outer ear opening (the top of the earlobes) 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.

1044.2.5 FINGERNAILS

Fingernails extending beyond the tip of the finger can pose a safety hazard to officers or others. For this reason, fingernails shall be trimmed so that no point of the nail extends beyond the tip of the finger.

1044.2.6 JEWELRY AND ACCESSORIES

No jewelry or personal ornaments shall be worn by officers on any part of the uniform or equipment, except those authorized within this manual. Jewelry, if worn around the neck, shall not be visible above the shirt collar.

Earrings shall not be worn by uniformed sworn members, detectives or special assignment personnel without permission of the Chief of Police or his/her designee. Only one ring may be worn on each hand of the employee while on-duty.

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1044.3 TATTOOS

While on duty or representing the Department in any official capacity, every reasonable effort should be made to conceal tattoos or other body art. At no time while on duty or representing the Department in any official capacity, shall any offensive tattoo or body art be visible (examples of offensive tattoos would include, but not be limited to those which depict racial, sexual, discriminatory, gang related, or obscene language).

1044.4 BODY PIERCING OR ALTERATION

Except for a single stud pierced earring worn in the lobe of each ear, no body piercing shall be visible while any employee is on duty or representing the Department in any official capacity without prior authorization from the Chief of Police.

Any 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 trans dermal implantation of any material other than hair replacement.
- (c) Abnormal shaping of the ears, eyes, nose or teeth
- (d) Branding or scarification.

Uniform Regulations

1046.1 PURPOSE AND SCOPE

The uniform policy of the Banning 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 manual is maintained and periodically updated by the Chief of Police or his/her designee. That manual should be consulted regarding authorized equipment and uniform specifications.

The Banning 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.
- (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.
- (i) Employees are not to purchase or drink alcoholic beverages while wearing any part of the department uniform, including the uniform pants.
- (j) Mirrored sunglasses will not be worn with any Department uniform.

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- (k) Visible jewelry, other than those items listed below, shall not be worn with the uniform unless specifically authorized by the Chief of Police or the authorized designee.
 - 1. Wrist watch
 - 2. Wedding ring(s), class ring, or other ring of tasteful design. A maximum of one ring/set may be worn on each hand
 - 3. Medical alert bracelet

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 Lieutenant.

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. The Class A uniform includes the standard issue uniform with:

- (a) Long sleeve shirt with tie
- (b) Polished shoes
- (c) Ceremonial Hat - LAPD Solid Sides Navy Blue Class A Hat (Worn on formal occasions and at officer's expense.)
 - 1. Officers have a black, high gloss plastic stretch band one half inch in width, secured with two "Police" gold in color buttons.
 - 2. Sergeants and above have a gold colored cloth stretch band one half inch in width, secured with two "Police" gold in color buttons.
 - 3. Lieutenant hats will have a black cloth visor with two arcs of oak leaves in one group embroidered in gold bullion 24 kt. gold color.
 - 4. Chief of Police hat will have a black cloth visor with 2 arcs of oak leaves in groups of two embroidered in gold bullion 24 kt. gold color.
- (d) Boots with pointed toes are not permitted.

1046.3.2 CLASS B UNIFORM

All officers will possess and maintain a serviceable Class B uniform at all times.

The Class B uniform will consist of the same garments and equipment as the Class A uniform with the following exceptions:

- (a) The long or short sleeve shirt may be worn with the collar open. No tie is required
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- (b) A white or black crew neck t-shirt must be worn with the uniform
- (c) All shirt buttons must remain buttoned except for the last button at the neck
- (d) Shoes for the Class B uniform may be as described in the Class A uniform
- (e) Approved all black polished shoes/boots may be worn
- (f) Boots with pointed toes are not permitted
- (g) Hat, baseball cap, black form fitting with approved department logo blue in color consistent with the background of the department's uniform patch may be worn at the officer's own expense. The baseball cap is optional outdoor wear for person's working in a uniformed capacity. It may not be worn in court with a tie or class A uniform. It may be worn with Class B uniform (standard uniform with long or short sleeve shirt).
- (h) Leather Jacket, Black cold weather uniform jacket for patrol officers. Appalachian Brand, Chicago Police #4450 with gold buttons on front and shoulder loops, from Greenwood Uniforms, San Bernardino, CA.
- (i) Windbreaker Jacket, Black U.S. Army Officer windbreaker for U.S. Army Class B uniform (current approved manufacturer) zipper front with shoulder loops. Badge holder to be added by Greenwood Uniforms, San Bernardino, CA. This jacket can be purchased from U.S. Military base store that sells U.S. Army approved uniforms.

1046.3.3 CLASS C UNIFORM

The Class C (BDU) uniform can be worn by officers when they have received prior authorization from the Chief of Police or on patrol during inclement weather conditions, as approved by the on-duty Watch Commander. When worn, the BDU Uniform shall be cleaned and pressed. The style and color of the BDU Uniform will be selected by the Chief of Police or his designee. To ensure consistency the departmental directive will identify the authorized make, style, and color of the authorized BDU Uniform.

The BDU Uniform Shirt requires subdued department patches on both shoulders and subdued cloth badge above the left pocket flap. A 1" cloth name-tape, navy blue in color, shall be sewn directly above the top of the right pocket flap with the officer's last name printed in capital letters with gray thread, consistent with the color of the subdued shoulder patch and badge.

The BDU Uniform pants will be worn bloused at all times with black polished boots.

K-9 Officers are authorized to wear the BDU as their daily patrol uniform.

1046.3.4 SPECIALIZED UNIT UNIFORMS

The Chief of Police may authorize special uniforms to be worn by officers in specialized units such as Canine, ETU, Traffic, Crime Scene Investigations, Range Master, Gang Task Force and other specialized assignments.

1046.3.5 FOUL WEATHER GEAR

The Uniform and Equipment Specifications lists the authorized uniform jacket and rain gear.

1046.3.6 NON-SWORN UNIFORMS

Non-Sworn personnel, consisting of Dispatchers, Record Clerks, Volunteers, Community Service Officer, and other personnel identified by the Chief of Police shall wear the following uniform:

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- (a) Dark blue polo style shirt with the embroidered cloth Banning Police Department badge on the left side of the shirt. The words for the employees' work assignments (i.e., Communications Center, Records) will appear on the shirt in yellow block letter embroidery below the badge. The employees' last name and first initial will appear on the right side of the shirt, opposite the badge, in the same yellow block lettering. The polo shirt will be tucked into the trousers or BDU pants.
- (b) Volunteers will wear a white polo style shirt with the embroidered cloth Banning Police Department badge on the left side of the shirt. The word "Volunteer" will appear on the shirt in dark navy blue block letter embroidery below the badge. The Volunteers' last name and first initial will appear on the right side of the shirt, opposite the badge, in the same dark navy blue block lettering. The polo shirt will be tucked into the trousers or BDU pants.
- (c) Dark blue uniform trousers may be worn or substituted with navy blue Mil-Spec BDU six pocket pants purchased by a vendor selected by the City. Trousers and pants must be worn with the black basket weave trouser belt with Velcro closure.
- (d) Dark blue uniform pants may be worn with black polished shoes or polished boots, but the BDU pants must be bloused when wearing boots.

1046.3.7 CEREMONIAL DRESS UNIFORM

The Ceremonial Dress Uniform is authorized for wear at the direction of the Chief of Police. Ceremonial Dress Uniforms will be provided by the department for the Chief of Police, Lieutenants, Honor/Color Guard Members, and other specialized assignments, as determined by the Chief of Police. Police Officers, not listed, may purchase the Ceremonial Dress Uniform at their own expense and wear it at the direction of the Chief of Police.

Ceremonial Dress Jacket - Dark Navy Blue Flying Cross Brand, Single Breasted with peaked lapels, Dress Jacket with gold "P" buttons.

- Honor Guard - Dark Navy Blue Marlow White Brand, Single Breasted Dress Jacket with gold "P" buttons. USMC Style Collar. Only to be worn Honor/Color Guard Members during ceremonies.

Shirt - Standard white, long sleeve, collared with black tie.

Trousers - Class A Style, 100% wool, with U.S. Army Dress Blue Style gold stripe on both legs.

Shoulder Patches - Custom designed patch with a specialized gold thread used to match the braid/stripe in the ceremonial hat and trousers.

Badge Holder - The standard cloth badge holder will be removed and raised 1 3/4 inches to allow the department issued badge to fit properly on the jacket.

Gold Rank Stripe on Sleeves:

- Sergeant - one 1/2 inch gold stripe placed 1/4 inches apart 3 inches up and parallel to the bottom of both sleeves.
- Lieutenant - two 1/2 inch gold stripes placed 1/4 inches apart 3 inches up and parallel to the bottom of both sleeves.
- Chief - four 1/2 inch gold stripes placed 1/4 inches apart 3 inches up and parallel to the bottom of both sleeves.

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Rank Insignia on Sleeves:

- Sergeants - Rank Insignia , with specialized gold thread to match the shoulder patch, to be sewn on both sleeves of jacket.

Shoulder Boards - Black wool military style hard shoulder boards placed on each shoulder loop. (Attached with special loop attachment provided by vendor.)

- Lieutenant - A gold bar affixed to the shoulder board placed 5/8 inch in from the end of the board nearest the sleeve. The spacing above and below the gold bar Will be equal in distance.
- Chief - Four gold stars affixed to the shoulder board placed equal spacing from the end of the shoulder board nearest the sleeve to the button hole.

Belt:

- Option 1: U.S. Army Dress Blue Style with California State Seal on Buckle.
- Option 2: Black USMC Patent Leather Same Browne Belt & Shoulder Strap.

Shoes - Black USMC Style Patent Leather with Leather Soles, by Bates.

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 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.
 1. Each service strip will denote five years of full-time paid service as a peace officer with any POST approved law enforcement agency.
 2. Service stripes can be added to the uniform shirt at the beginning of the year in which an officer will be qualified to add the stripe.
- (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 located in the middle, bisected by the pressed shirt seam, with equal distance from both sides of the nameplate to the outer edge of the pocket.
- (d) When a jacket is worn, a sewn on cloth nameplate shall be affixed to the jacket in the same manner as the uniform.
- (e) Assignment Insignias - Assignment insignias, (ETU, 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.

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- (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.
 - 1. Chief four gold stars worn on each collar.
 - 2. Lieutenant one gold bar worn on each collar.
 - 3. Junior Sergeants - three cloth stripes. Placement of the stripes is below the shoulder patch on the shirt and jacket. The stripes are regulation with royal blue stripes and gold trim on a black background.
 - 4. Staff Sergeants - three cloth stripes with a single rocker. Placement of the stripes is below the shoulder patch on the shirt and jacket. The stripes are regulation with royal blue stripes and gold trim on a black background.
 - 5. Master Sergeants - three cloth stripes with a double rocker and star in the middle. Placement of the stripes is below the shoulder patch on the shirt and jacket. The stripes are regulation with royal blue stripes and gold trim on a black background. The star is royal blue in color with gold trim.
 - 6. Reserve Sergeant one black chevron worn on each collar.

1046.4.1 WEARING OF MEDALS & RIBBONS

The purpose of this policy is to identify the location where medals, ribbons, and pins can be worn on the uniform. Additionally, it outlines the process of how a member of the department can obtain authorization to wear medals and/or ribbons presented to them while they worked for another law enforcement agency.

- (a) Presentation Medals will be worn only on the dress uniform jacket. The medal(s) will be displayed in order of precedence, in one or more rows, with 1/8-inch spacing between rows. The second and subsequent rows will not contain more medals than the row below. The number of medals worn in a row depends on the size of the jacket; they must not overlap within a row. The first row of medals shall be attached immediately above the seam of the left breast pocket, centered.
- (b) Ribbon bars shall be worn immediately above the seam of the left breast pocket of the standard class A uniform shirt, centered. In order for the ribbons not to be covered by the badge, the cloth badge holder on the class A uniform shirt must be raised 1-inch in length.
- (c) Multiple ribbon bars shall be worn end-to-end to form one solid bar with no more than three across (Military style). Ribbon bars in excess of three shall be worn end-to-end and centered above the initial solid bar of three. However, six medals or ribbon bars shall be worn end-to-end to form two rows of three across.
- (d) Multiple medals or ribbon bars shall be displayed from the recipient's right to left in the following order:
 - 1. Medal of Valor, Medal of Courage, Lifesaving, Distinguished Service Medal, Medal of Merit, Chief's Purple Heart, Unit Citation Ribbon, and Officer of the Year.
 - 2. In the event a Department member receives more than one medal of the same type, the accompanying ribbon bar shall be presented with a gold star cluster to specify the number of medals the recipient has received in that category.

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- (e) Members of this agency may wear medals and/or ribbons presented by other law enforcement agencies/groups/associations, with approval of the Chief. The presentation must be for law enforcement related services.
 - 1. On an annual basis, members of this agency who wish to wear medals and/or ribbons presented to them, while working for a different law enforcement agency, must submit a request to the Department's Awards Committee for evaluation. Included in the request must be all the documentation identifying why the award was given. If the Awards Committee authorizes the wearing of the award, the agency member will be provided with a Banning Police Department Ribbon that most closely reflects the requirements of the award received at the other agency.

- (f) Members of this agency may wear one pin of their choice on the class A uniform shirt. The pin can be one that has been presented to them by other law enforcement agencies/groups/associations (10851, CAL ID, 23152, American flag, etc..) or a special assignment insignia pin for the department . A pin, awarded by another law enforcement agency, can only be worn during the year in which it was awarded. A special assignment pin can only be worn during the time that the officer is assigned to that special assignment.
 - 1. The pin shall be worn on the right pocket flap, centered between the pocket button and the left edge of the pocket flap and centered between the top and bottom seems of the pocket flap.

- (g) Firearm qualification expert medals will be issued by the range staff. These medals are to be worn on Class A Uniforms and only by those officers who have met the department's expert firearm qualification standard. The medals are to be worn on the uniforms as follows:
 - Two Medal Uniform Placement: Officers who have qualified as experts for both handgun and rifle; the top of the medals shall be placed flush with the top pocket sewing seam. The medals are to be centered on the left pocket flap, 5/8 inch apart. The handgun medal is to be worn on the right side of the button and the rifle medal is to be worn on the left side of the button.
 - One Medal Uniform Placement: Officers who have qualified to wear one medal; the medal shall be placed flush with the top pocket sewing seam, centered on the left pocket button.

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) All male administrative, investigative and support personnel who elect to wear civilian clothing to work shall wear button style shirts with a collar, slacks or suits that are moderate in style.
- (c) All female administrative, investigative, and support personnel who elect to wear civilian clothes to work shall wear dresses, slacks, shirts, blouses, or suits which are moderate in style.
- (d) The following items shall not be worn on duty:
 - 1. T-shirt alone

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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
- (e) Variations from this order are allowed at the discretion of the Chief of Police or designee when the employee's assignment or current task is not conducive to the wearing of such clothing.
- (f) No item of civilian attire may be worn on duty that would adversely affect the reputation of the Banning Police Department or the morale of the employees.

1046.6 POLITICAL ACTIVITIES, ENDORSEMENTS, AND ADVERTISEMENTS

Unless specifically authorized by the Chief of Police, Banning 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 Banning 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)

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 Banning 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.

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A badge issued to an honorably retired peace officer that is not affixed to a plaque or other memento will have the words "Retired" clearly visible on its face. A retiree shall be instructed that any such badge will remain the property of the Banning Police Department and will be revoked in the event of misuse or abuse (Penal Code § 538d).

1046.8 UNAUTHORIZED UNIFORMS, EQUIPMENT AND ACCESSORIES

Banning 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.

Banning 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.

Police Cadets

1048.1 PURPOSE AND SCOPE

Cadets work under direct supervision, perform a variety of routine and progressively more advanced tasks in an apprenticeship program in preparation for a career in law enforcement.

1048.2 EDUCATION REQUIREMENTS

Cadets are required to maintain a minimum grade point average of 2.0 ("C" grade) for all courses taken. Cadets shall complete six semester units of college course work per semester and senior cadets shall complete 12 units per semester.

1048.3 PROGRAM COORDINATOR

The Chief of Police will assign a Program Coordinator of his choice. This supervisor will be responsible for tracking the educational and job performance of cadets as well as making their individual assignments throughout the Department. He/she will also monitor the training provided for all cadets and review all decisions affecting job assignments, status for compensation, school attendance and performance evaluations.

1048.3.1 PROGRAM ADVISORS

The Program Coordinator may select individual officers to serve as advisors for the Cadet Program. These officers will serve as mentors for each cadet. Cadets will bring special requests, concerns, and suggestions to their program advisor for advice or direction before contacting the Program Coordinator. One advisor may be designated as the Coordinator's assistant to lead scheduled meetings and training sessions involving the cadets. Multiple cadets may be assigned to each program advisor. Program advisors are not intended to circumvent the established chain of command. Any issues that may be a concern of the individual's supervisor should be referred back to the Program Coordinator.

1048.4 ORIENTATION AND TRAINING

Newly hired cadets will receive an orientation of the organization and facilities before reporting to their first assignment. On-the-job training will be conducted in compliance with the Cadet Training Manual. Training sessions will be scheduled as needed to train cadets for as many assignments as possible. In addition to job-specific training, information will be offered to prepare cadets to compete successfully in the police officer selection process, as well as the academy training. All training will focus on improving job performance, as well as preparation to become police officers. These meetings will also offer an opportunity to receive continuous feedback regarding progress of the program.

1048.5 CADET UNIFORMS

Each cadet will be provided two uniforms meeting the specifications described in the Uniform Manual for non-sworn employees.

1048.6 ROTATION OF ASSIGNMENTS

Rotating job assignments should occur on a regular basis to enhance the career development for each cadet. Department needs and concerns will take precedence over individual considerations with the final decision resting with the Training Bureau Manager.

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In general, senior cadets will be assigned to positions requiring more technical skill or responsibility, as well as serving to train cadets for new assignments or those newly hired.

1048.7 RIDE-ALONG PROCEDURES

All cadets are authorized to participate in the Ride-Along Program on their own time and as approved by their immediate supervisor and the appropriate Watch Commander. Applicable waivers must be signed in advance of the ride-along. Cadets shall wear their uniform while participating on a ride-along.

1048.8 PERFORMANCE EVALUATIONS

Performance evaluations for all cadets shall be completed monthly during their first year on probation. Upon successful completion of probation, cadets and senior cadets will be evaluated on a yearly basis to assess their current job performance and their potential as police officers.

Pregnancy Leave

1049.1 PURPOSE AND SCOPE

The purpose of this policy is to provide for a leave of absence for female employees due to pregnancy.

1049.2 POLICY

1049.2.1 LEAVE OF ABSENCE

- (a) Any female employee affected by pregnancy, childbirth, or related medical conditions may take a leave of absence for a reasonable period of time.
- (b) Such period of time not to exceed four (4) months.
- (c) The employee shall be entitled to utilize any accrued vacation leave during this period of time.

1049.2.2 DUTY ASSIGNMENT

- (a) Any pregnant female employee may request a temporary transfer to a less strenuous or hazardous position for the duration of the disability, with the advice of the employee's physician.
- (b) The transfer, if requested, shall be afforded the employee where such can be reasonably accommodated.
- (c) The Department is not required to create additional employment which it would not otherwise have created, nor shall the Department discharge any employee, transfer any employee with more seniority, or promote any employee who is not qualified to perform the job.

Reference: Government Code § 12945.

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, occupying a position in the line of supervision or being directly supervised by any other employee who is a relative or with whom they are involved in a personal or business relationship.
 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.

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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 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.

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 Banning 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 Banning 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. 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.

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- 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 Banning 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 Banning Police Department and tends to compromise or damage the mission, function, reputation or professionalism of the Banning 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 Banning 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.
- (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 Banning 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).

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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 Banning Police Department or identify themselves in any way that could be reasonably perceived as representing the Banning 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 Banning 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.

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.

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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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