

# Fullerton Police Department

## Policy Manual

### **CHIEF'S PREFACE**

This Policy Manual is the ongoing product of changing laws, practices and procedures that are integral to providing guidance and direction to every member of this Department. Every 6 months, updates are included to incorporate the most contemporary National, State and Local standards and laws that range from critical incidents to reporting requirements. While this Policy Manual is comprehensive, the foremost professional attribute must first include a standard of community service that embodies the tenants of the Law Enforcement Code of Ethics that embrace excellence in our personal and professional lives. Among the Codes are: honesty, integrity, self-restraint and being constantly mindful of the welfare of others.

The Manual provides every employee contemporary technical guidance on critical, but infrequent tasks, as well as offering less experienced employees the opportunity to study policies related to tasks or events not yet encountered. Even veteran employees need to review this Manual to ensure that they are familiar with the most current procedures in an ever changing profession. Every employee is expected to review this Manual and, if further clarification is necessary, to discuss with their Supervisor. Employees detecting any corrections or amendments should notify their immediate supervisor who should notify (preferably in writing) the Professional Standard Bureau for any possible recommended changes.

The police profession is a noble and honorable calling that requires integrity, honesty, dedication, and a commitment to serve our community. The contents of this Manual will assist you in making proper ethical decisions and will help prepare you for a satisfying and successful career.

Danny Hughes

Acting Chief of Police

# Fullerton Police Department

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

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

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

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

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

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

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

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**MISSION STATEMENT**

We are committed to the safety of our community through problem solving partnerships, emphasizing a prompt response, a caring attitude, and a visible presence.

"Response - Attitude - Presence"

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

## Law Enforcement Authority

### 100.1 PURPOSE AND SCOPE

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

### 100.2 PEACE OFFICER POWERS

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

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

### 100.3 CONSTITUTIONAL REQUIREMENTS

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

## **Chief Executive Officer**

### **102.1 PURPOSE AND SCOPE**

The California Commission on Peace Officer Standards and Training (POST) has mandated that all sworn officers and dispatchers employed within the State of California shall receive certification by POST within prescribed time periods.

#### **102.1.1 CHIEF EXECUTIVE OFFICER REQUIREMENTS**

Any chief executive officer of this department appointed after January 1, 1999, shall, as a condition of continued employment, complete the course of training prescribed by POST and obtain the Basic Certificate by POST within two years of appointment.

## Oath of Office

### 104.1 PURPOSE AND SCOPE

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

#### 104.1.1 OATH OF OFFICE

Upon employment, all sworn employees shall be required to affirm the oath of office expressing commitment and intent to respect constitutional rights in discharging the duties of a law enforcement officer (Cal. Const. Art. 20, § 3 and 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 Fullerton 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.

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

#### **106.2.2 STAFF**

Staff shall consist of the following:

- Chief of Police
- The Captain from each division

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

#### **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 Commander 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.

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### *Policy Manual*

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#### **106.3.1 ACCEPTABLE ABBREVIATIONS**

The following abbreviations are acceptable substitutions in the manual:

- Departmental Directives may be abbreviated as "DD"
- 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 Fullerton .

**Department/FPD** - The Fullerton 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 Fullerton Police Department Policy Manual.

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

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

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

**Officer/Sworn** - Those employees, regardless of rank, who are sworn employees of the Fullerton 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 issued by a superior.

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

**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

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### *Policy Manual*

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#### **106.3.3 DISTRIBUTION OF MANUAL**

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

- Chief of Police
- Captains
- Professional Standards Bureau
- 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 electronically 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. Periodically, email notifications regarding updates to the Policy Manual will be sent to every employee. The Services Division Commander, or his designate will ensure that each employee has electronically acknowledged receipt via the View Updates Link provided by Lexipol (KMS), similar to the process highlighted in section 106.4.

Each unit commander/manager will ensure that employees under his/her command are aware of any Policy Manual revisions.

##### **106.4.2 MEET AND CONFER PROCESS**

Notice of policy revision shall be given to the recognized employee organization and the Department shall comply with any meet and confer objection required by law.

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

- Services Division
- Uniform Division
- Detective Division

#### **200.2.1 SERVICES DIVISION**

The Services Division commanded by a Captain whose primary responsibility is to provide general management direction and control for the Service Division. The Service Division consists of Technical Services, Professional Standards Bureau, Property, Jail, Cadets, Community Services and Chaplin.

#### **200.2.2 UNIFORM DIVISION**

The Uniform Division commanded by a Captain whose primary responsibility is to provide general management direction and control for that Division. The Uniform Division consists of Uniformed Patrol and Special Operations, which includes: Traffic, Communications Center, Crisis Response Unit, Vehicle maintenance, Crime Lab, Reserve Officers and Police Aides/Assistants.

#### **200.2.3 DETECTIVE DIVISION**

The Detective Division is commanded by a Captain whose primary responsibility is to provide general management direction and control for the Detective Division. The Detective Division includes the Crime Analysis Unit.

### **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 will rotate in a quarterly order as follows:

- (a) Uniform Division Commander (January - April)
- (b) Detective Division Commander (May - August)
- (c) Services Division Commander (September - December)

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## Policy Manual

### *Organizational Structure and Responsibility*

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(d) Watch Commander

#### **200.3.2 UNITY OF COMMAND**

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

#### **200.3.3 ORDERS**

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

## **Departmental Directive**

### **204.1 PURPOSE AND SCOPE**

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

#### **204.1.1 DEPARTMENTAL DIRECTIVE PROTOCOL**

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

All existing Departmental Directives have now been incorporated in the updated Policy Manual as of the below revision date.

Any Departmental Directives issued after publication of the manual shall be numbered consecutively starting with the last two digits of the year, followed by the number "01" For example, 11-01 signifies the first Departmental Directive for the year 2011.

### **204.2 RESPONSIBILITIES**

#### **204.2.1 STAFF**

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

#### **204.2.2 CHIEF OF POLICE**

The Chief of Police shall issue all Departmental Directives.

# Facility Security

## 205.1 PURPOSE AND SCOPE

The purpose of this directive is to establish criteria for the security of the police facility and identification of Department employees, City employees and citizens. It is the responsibility of all employees to ensure these measures are being adhered to. The intention is not to inconvenience Department employees but to maintain a secure and safe environment from which we can conduct business.

## 205.2 SECURITY MEASURES

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

### 205.2.1 PROXIMITY CARD

[REDACTED]

[REDACTED]

[REDACTED]

## **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.

### **206.3 LOCATION OF THE PLAN**

The Emergency Management Plan is available in Services and the Watch Commander's office. All supervisors should familiarize themselves with the Emergency Management Plan. The Services 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.

# Emergency Evacuation Procedure

## 207.1 PURPOSE AND SCOPE

This procedure describes the recommended plan for the evacuation of the Police Facility in the event of a fire or other emergency. Supervisors are to insure that all employees under their direction are familiar with this evacuation plan so that prompt and safe procedures are followed for an orderly evacuation of any portion of the Police Facility.

## 207.2 FIRE ALARM SYSTEM

The Police Facility is protected with a fire alarm system

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

### 207.2.1 DISPATCHER RESPONSIBILITY

[REDACTED]

[REDACTED]

### 207.2.2 FIRE EXTINGUISHERS

[REDACTED]

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*Emergency Evacuation Procedure*

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**207.3 GENERAL EVACUATION PROCEDURES**

The following plans and procedures are offered as a guideline for the general safety of all employees and building occupants.

**207.3.1 EVACUATION OF OFFICES**

Generally, the following should be observed for employee safety during an evacuation:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

**207.3.2 COMMUNICATIONS CENTER EVACUATION**

- [REDACTED]
- [REDACTED]
- [REDACTED]

**207.4 EVACUATION OF THE JAIL**

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

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*Emergency Evacuation Procedure*

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● [REDACTED]

**207.4.1 JUVENILE DETENTION CELLS**

[REDACTED]

**207.5 EVACUATION OF THE FRONT DESK**

[REDACTED]

**207.6 TESTS OF THE FIRE ALARM SYSTEM**

[REDACTED]



## **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 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 Services Division Commander. It is the responsibility of the Services Division Commander to maintain, review, and update the training plan on an annual basis. The plan will address the following areas:

- Legislative Changes
- State Mandated Training
- Critical Issues Training

### **208.5 TRAINING NEEDS ASSESSMENT**

The Professional Standards Bureau 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*

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- (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 Services Division Commander to attend the required training on an alternate date.

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## 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). However, incidental and minimal use which does not interfere with the employee's performance shall not be a violation of this policy. Messages transmitted over the e-mail system should be limited to 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

# Fullerton Police Department

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management of their mailboxes. Messages should be purged manually by the user at least once per week. All messages in excess of one month will be deleted at regular intervals from the server computer.

#### **212.5 RETRIEVAL OF EMAIL**

All employees assigned a Departmental email address shall check their mailboxes at least once per shift and read/respond to any new electronic messages. Exceptions to this requirement may be authorized by a supervisor or excused due to system malfunction. This will ensure that information is distributed to all employees in a timely manner. It will also provide a convenient means of contacting employees who do not have a phone extension or voice-mailbox assigned to them.

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## **Administrative Communications**

### **214.1 PURPOSE AND SCOPE**

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

### **214.2 PERSONNEL ORDER**

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

### **214.3 CORRESPONDENCE**

In order to ensure that the letterhead and name of the Department are not misused, all external correspondence shall be on Department letterhead. All Department letterhead shall bear the signature element of the Chief of Police. Personnel should use Department letterhead only for official business and with approval of their supervisor.

#### **214.3.1 SIGNATURES REQUIRED ON DEPARTMENT LETTERHEAD**

All Department letterhead shall be signed by a Division Commander or the Chief of Police and shall bear the signature element of the Chief of Police.

### **214.4 SURVEYS**

All surveys made in the name of the Department shall be authorized by the Chief of Police or a Division Commander.

## **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**

Minimum staffing levels should result in the scheduling of at least two regular supervisors on duty whenever possible. Watch Commanders will ensure that at least one field supervisor is deployed during each watch, in addition to the Watch Commander.

#### **216.2.1 SUPERVISION DEPLOYMENTS**

In order to accommodate training and other unforeseen circumstances, Corporals may be used as field supervisors in place of a field sergeant.

With prior authorization from the Uniform Division Commander, a Corporal may act as the Watch Commander for a limited period of time.

### **216.3 TWO FIELD SUPERVISOR DEPLOYMENT**

Watch Commanders will identify those busiest days of the week for their watch and will deploy a minimum of two field supervisors for those days.

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## Concealed Weapon License

### 218.1 PURPOSE AND SCOPE

The Chief of Police is given the statutory discretion to issue a license to carry a concealed firearm to residents within the community. 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 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)).

### 218.2 QUALIFIED APPLICANTS

In order to apply for a license to carry a concealed weapon, the applicant must meet the following requirements:

- (a) Be a resident of the City of Fullerton.
- (b) Be at least 21 years of age.
- (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 concealed weapon. Fingerprints will be required and a complete criminal background check will be conducted.
- (e) Be of good moral character.
- (f) Show good cause for the issuance of the license.
- (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 and registration of any weapon to be licensed for concealment.
- (i) Provide at least three letters of character reference.
- (j) Be free from any medical and psychological conditions that might make the applicant unsuitable for carrying a concealed weapon
- (k) Complete required training.

### 218.3 APPLICATION PROCESS

The application process for a license to carry a concealed weapon 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.

#### 218.3.1 PHASE ONE (TO BE COMPLETED BY ALL APPLICANTS)

- (a) Any individual applying for a license to carry a concealed weapon shall first fully complete a Concealed Weapons License Application to be signed under penalty of

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### *Concealed Weapon License*

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perjury. It is against the law to knowingly make any false statements on such an application (Penal Code § 12051 (b) & (c)).

1. In the event of any discrepancies in the application or background investigation, the applicant may be required to undergo a polygraph examination.
2. If an incomplete CCW 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 CCW Permit 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 Department of Justice for the required application fee along with a separate check made payable to the City of Fullerton for a nonrefundable 20 percent of the application fee to cover the cost of processing.
  1. The application fee does not include any additional fees required for fingerprinting, training or psychological testing.
  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 § 12050 (a)(1)(C)).
- (c) The applicant shall be required to submit to Live-Scan fingerprinting and a complete criminal background check by the Department of Justice. A second set of fingerprints may be required for retention in department files. Two recent passport size photos (two inches by two inches) of the applicant shall be submitted for department use. Fingerprint and photograph fees will be collected in addition to the application fees. No person determined to fall within a prohibited class described in Penal Code §§ 12021 or 12021.1 or Welfare and Institutions Code §§ 8100 or 8103 may be issued a license to carry a concealed weapon.
- (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 and registration of each weapon to be licensed for concealment.

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 Department of Justice, whichever is later (Penal Code § 12052.5).



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#### **218.3.2 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.
- (b) The applicant may be required to provide written evidence from a licensed physician that the applicant is not currently suffering from any medical condition that would make the individual unsuitable for carrying a concealed weapon. All costs associated with this requirement shall be paid by the applicant. Failure to provide satisfactory evidence of medical fitness shall result in removal of the applicant from further consideration.
- (c) The Chief of Police may require that the applicant be referred to an authorized psychologist used by the Department for psychological testing in order to determine the applicant's suitability for carrying a concealed weapon. The cost of such psychological testing (not to exceed \$150) shall be paid by the applicant. This testing is not intended to certify the applicant is psychologically fit to carry a weapon. It is instead intended to determine whether an applicant has any outward indications or history of psychological problems that might render him/her unfit to carry a concealed weapon. If it is determined that the applicant is not a suitable candidate for carrying a concealed weapon, the applicant shall be removed from further consideration.
- (d) The applicant shall complete a 16-hour course of training approved by the agency minimally including firearms safety and the laws regarding the permissible use of a firearm.
- (e) The applicant shall submit any weapon to be considered for a license to the Rangemaster or other departmentally authorized gunsmith for a full safety inspection. The Chief of Police reserves the right to deny a license for any weapon from an unrecognized manufacturer or any weapon that has been altered from the manufacturer's specifications.
- (f) The applicant shall successfully complete a firearms safety and proficiency examination with the weapon 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 concealed weapon 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 Department of Justice, whichever is later. (Penal Code § 12052.5).

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### *Concealed Weapon License*

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#### **218.4 LIMITED BUSINESS LICENSE TO CARRY A CONCEALED WEAPON**

The authority to issue a limited business license to carry a concealed weapon 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 Fullerton.
- (b) Such a license will be valid for a period not to exceed 90 days from the date of issuance.
- (c) The applicant shall provide a copy of the license to the licensing authority of the city or county in which the applicant resides.
- (d) Any application for renewal or re-issuance 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.

#### **218.5 ISSUED CONCEALED WEAPONS PERMITS**

In the event a license to carry a concealed weapon 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 concealed firearm.
  1. All such restrictions or conditions shall be conspicuously noted on any license issued (Penal Code § 26200).
  2. The licensee will be required to sign a Restrictions and Conditions Agreement. Any violation of any of the restrictions and conditions may result in the immediate revocation of the license.
- (c) The license shall be laminated, bearing a photograph of the licensee with the expiration date, type of weapon, 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.
  1. A license issued to 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.

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### *Concealed Weapon License*

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- (e) The licensee shall notify this department in writing within ten days of any change of place of residency. If the licensee moves out of the county of issuance, the license shall expire ninety (90) days after the licensee has moved.

#### **218.5.1 LICENSE RESTRICTIONS**

- (a) The Chief of Police may place special restrictions limiting time, place and circumstances under which any license shall be valid. In general, these restrictions will prohibit the licensee from any of the following:
  1. Consuming any alcoholic beverage while armed
  2. Falsely representing him or herself as a peace officer
  3. Unjustified or unreasonable displaying of a weapon
  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 weapon for inspection upon demand of any peace officer
- (b) The Chief of Police reserves the right to inspect any license or licensed weapon at any time.
- (c) Any ammunition carried in a weapon licensed to be carried concealed, shall be inspected and approved by the department's Rangemaster or armorer. The carrying of any other ammunition in a licensed weapon shall be grounds for revocation.
- (d) The alteration of any previously approved weapon including, but not limited to adjusting trigger pull, adding laser sights or modifications shall void any license and serve as grounds for revocation.

#### **218.5.2 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 accomplish one or more of the following:

- (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

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(s). 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.

#### **218.5.3 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) If the licensee has violated any of the restrictions or conditions placed upon the license
- (b) If the licensee becomes medically or psychologically unsuitable to carry a concealed weapon

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- (c) If the licensee is determined to be within a prohibited class described in Penal Code §§ 29800 or 29900 or Welfare and Institutions Code §§ 8100 or 8103
- (d) If the licensee engages in any conduct which involves a lack of good moral character or might otherwise remove the good cause for the original issuance of the license
- (e) If the licensee establishes residency outside the Fullerton

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 and the Department of Justice pursuant to Penal Code § 26225.

#### **218.5.4 LICENSE RENEWAL**

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

- (a) Verifying all information submitted in the original application under penalty of perjury
- (b) Taking an authorized training course of no less than four hours including firearms safety and the laws regarding the permissible use of a firearm
- (c) Submitting any weapon to be considered for a license renewal to the department's Rangemaster for a full safety inspection. The renewal applicant shall also successfully complete a firearms safety and proficiency examination with the weapon to be license renewal, to be administered by the Rangemaster, including completion of all releases and other forms
- (d) Payment of a non-refundable renewal application fee

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

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

#### **218.6 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 Department of Justice:

- (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 concealed weapons issued to reserve peace officers and judges.

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#### **218.7 CONFIDENTIAL RECORDS**

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

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

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## Retired Officer CCW Endorsements

### 220.1 PURPOSE AND SCOPE

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

### 220.2 QUALIFIED RETIREES

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

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

### 220.3 MAINTAINING A CCW ENDORSEMENT

In order to maintain a "CCW Approved" endorsement on an identification card, the retired officer shall (Penal Code § 12027.1(a)(2)):

- (a) Qualify annually with the authorized firearm at a course approved by this department at the retired officer's expense.
  - 1. Retirees may re-qualify at no cost at the Department range. Those living out of County or Out-of-State may re-qualify at a range of their choice. A "Range Qualification Statement" (form 823) shall be completed, signed and returned to the Professional Standard Bureau along with the current ID card.
  - 2. The new ID card with the yearly CCW approval will be issued and mailed to the Retiree.
  - 3. As deemed necessary, PSB may contact the retiree for an updated photo prior to issuing the new ID card
- (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 United States Code 926C and Policy Manual § 312.8, 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):

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### *Retired Officer CCW Endorsements*

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

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

The CCW endorsement under Penal Code § 25470 for any officer retired from this department may be denied or permanently revoked only upon a showing of good cause. Any denial or revocation under this section shall also be considered disqualification under 18 USC § 926C(d). The CCW endorsement may be immediately and temporarily revoked by the Services Division Commander when the conduct of a retired peace officer compromises public safety. The retiree shall be given written notice and a copy of the appeal process within 3 days of the revocation by personal service or first class mailing to the retiree's last known address. 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".

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### *Retired Officer CCW Endorsements*

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#### **220.6.1 WATCH COMMANDER RESPONSIBILITY**

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

- (a) Take appropriate steps to promptly look into the matter.
- (b) If warranted, contact the retiree in person and advise him/her in writing of the following:
  - 1. The retiree's CCW endorsement is immediately and temporarily revoked.
  - 2. The retiree will have 15 days to request a hearing to determine whether the temporary revocation should become permanent.
  - 3. The retiree will forfeit his/ her right to a hearing and the CCW endorsement will be permanently revoked if the retiree fails to respond to the notice of hearing within the 15-day period.
- (c) A current copy of Penal Code §§ 26305, 26312 and 26315 should be attached to the written notice.
- (d) In the event that personal contact with the retiree cannot be reasonably achieved in a timely manner, the Watch Commander should attempt to make the above notice of temporary suspension through another peace officer. For example, if a retiree was arrested or detained by a distant agency, the Watch Commander may request that a peace officer of that agency act as the Department's agent to deliver the written notification.
- (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 recognizes that the use of force by law enforcement requires constant evaluation. Even at its lowest level, the use of force is a serious responsibility. The purpose of this policy is to provide officers of this department with 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, each officer is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

#### 300.1.1 PHILOSOPHY

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 human encounters and when warranted, may use force in carrying out their duties.

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

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. It is also understood that vesting officers with the authority to use reasonable force and protect the public welfare requires a careful balancing of all human interests.

#### 300.1.2 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 such excessive force. Such officers should also promptly report these observations to a supervisor.

### 300.2 POLICY

It is the policy of this department that officers shall use only that amount of force that is objectively reasonable, given the facts and circumstances perceived by the officer at the time of the event, to effectively bring an incident under control. "Reasonableness" of the force used must be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any interpretation of reasonableness must allow for the fact that police officers are often forced to make split-second decisions in circumstances that are tense, uncertain and rapidly evolving about the amount of force that is reasonable in a particular situation.

Given that no policy can realistically predict every possible situation an officer might encounter in the field, it is recognized that each officer must be entrusted with well-reasoned discretion in determining the appropriate use of force in each incident. While it is the ultimate objective of every law enforcement encounter to minimize injury to everyone involved, nothing in this policy requires an officer to actually sustain physical injury before applying reasonable force.

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#### **300.2.1 USE OF FORCE TO EFFECT AN ARREST**

Any peace officer that has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the 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 of the person being arrested; nor shall such officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance (Penal Code § 835a).

#### **300.2.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE**

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

- (a) The conduct of the individual being confronted (as reasonably perceived by the officer at the time).
- (b) Officer/subject factors (age, size, relative strength, skill level, injury/exhaustion and number of officers vs. subjects).
- (c) Influence of drugs/alcohol (mental capacity).
- (d) Proximity of weapons.
- (e) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (f) Time and circumstances permitting, the availability of other options (what resources are reasonably available to the officer under the circumstances).
- (g) Seriousness of the suspected offense or reason for contact with the individual.
- (h) Training and experience of the officer.
- (i) Potential for injury to citizens, officers and suspects.
- (j) Risk of escape.
- (k) Other exigent circumstances.

It is recognized that officers are expected to make split-second decisions and that the amount of an officer's time available to evaluate and respond to changing circumstances may impact his/her decision.

While various degrees of force exist, each officer is expected to use only that degree of force reasonable under the circumstances to successfully accomplish the legitimate law enforcement purpose in accordance with this policy.

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

#### **300.2.3 NON-DEADLY FORCE APPLICATIONS**

Any application of force that is not reasonably anticipated and intended to create a substantial likelihood of death or very serious injury shall be considered non-deadly force.

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Each officer is provided with equipment, training and skills to assist in the apprehension and control of suspects as well as protection of officers and the public. Non-deadly force applications may include but are not limited to leg restraints, control devices and EMDT device described in Policy Manual §§ 306, 308 and 309 respectively.

#### **300.2.4 PAIN COMPLIANCE TECHNIQUES**

Pain compliance techniques may be very effective in controlling a passive or actively resisting individual. Officers may only apply those pain compliance techniques for which the officer has received departmentally approved training and only when the officer believes that the use of such a technique appears objectively reasonable to further a legitimate law enforcement purpose. Officers utilizing any pain compliance technique should consider the totality of the circumstance including, but not limited to:

- (a) The potential for injury to the officer(s) or others if the technique is not used
- (b) The potential risk of serious injury to the individual being controlled
- (c) The degree to which the pain compliance technique may be controlled in application according to the level of resistance
- (d) The nature of the offense involved
- (e) The level of resistance of the individual(s) involved
- (f) The need for prompt resolution of the situation
- (g) If time permits (e.g., passive demonstrators), other reasonable alternatives

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

#### **300.2.5 CAROTID RESTRAINT**

The proper application of the carotid restraint hold by a trained officer may be effective in restraining a violent individual. Only officers who have successfully completed department-approved training on the use of the carotid restraint hold and the department Use of Force Policy are authorized to use the technique.

The carotid restraint hold may only be used when the officer believes that the application of the hold appears objectively reasonable to prevent serious injury or death to an officer or other person(s).

After any application of any carotid restraint hold, the officer shall ensure the following steps occur:

- (a) Any individual who has had the carotid restraint hold applied, regardless of whether he/she was rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel.
- (b) 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 restraint hold and whether the subject lost consciousness as a result.
- (c) Any officer applying the carotid restraint shall promptly notify a supervisor of the use or attempted use of such hold.
- (d) The use or attempted use of the carotid restraint shall be thoroughly documented by the officer in the related incident report.

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#### **300.3 DEADLY FORCE APPLICATIONS**

While the use of a firearm is expressly considered deadly force, other force might also be considered deadly force if the officer reasonably anticipates and intends that the force applied will create a substantial likelihood of causing death or very serious injury. Use of deadly force is justified in the following circumstances:

- (a) An officer may use deadly force to protect himself/herself or others from what he/she reasonably believe would be an imminent threat of death or serious bodily injury.
- (b) An officer may use deadly force to stop a fleeing suspect when the officer has probable cause to believe that the suspect 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 or future potential risk of serious bodily injury or death to any other person if the suspect is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

#### **300.4 REPORTING THE USE OF FORCE**

Any use of physical 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 use of particular weapons such as chemical agents may require the completion of additional report forms as specified in departmental policy and/or law.

##### **300.4.1 NOTIFICATION TO SUPERVISORS**

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

- (a) The application of force appears to have caused physical injury
- (b) The individual has expressed a complaint of pain
- (c) Any application of a control device
- (d) The individual has been rendered unconscious

##### **300.4.2 MEDICAL ATTENTION FOR INJURIES SUSTAINED USING FORCE**

Prior to booking or release, medical assistance shall be obtained for any person who has sustained visible injury, expressed a complaint of injury or continuing pain, or who has been rendered unconscious. 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 an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

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 and should be examined by qualified medical personnel as soon as practicable. Any individual exhibiting signs of distress after such an encounter shall be medically cleared prior to booking.

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#### **300.5 SUPERVISOR RESPONSIBILITY**

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

- (a) Obtain the basic facts from any un-involved officer(s), witnesses or other personnel at the scene. Involved officers may provide voluntary statements or reports.
- (b) Ensure that any injured parties are examined and treated.
- (c) Separately obtain a recorded interview with the subject(s) 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.
- (e) Once any initial medical assessment or first aid has been completed, 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 also be retained until all potential civil litigation has expired.
- (f) Identify any witnesses not already included in related reports.
- (g) Review and approve all related reports.

In the event that the supervisor believes that the incident may give rise to potential civil litigation, the Division Commander shall be given written notice, via chain of command, within 24 hours.

Should the supervisor have cause to believe that the application of force requires further investigation, a separate internal administrative investigation shall be initiated.

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.

#### **300.5.1 REPORTING**

The purpose of the supervisor investigation is to ensure consistent and accurate documentation by the officer(s) involved and to verify that appropriate medical treatment was provided or offered to the injured person(s). The supervisor shall also include a factual review of the tactics used as well as evaluating whether reasonable actions were taken given the gravity and specifics of the event in accordance with legal statutes and Department policy. This report is reviewed by the Division Commander and/or Staff who will make the determination if the actions were within Department Policy and if additional training is recommended.

#### **300.5.2 DOCUMENTATION**

All documentation shall include but is not limited to the following documents or evidence:

- (a) Police Reports
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- (b) Medical reports, if available. When possible have the injured subject sign a waiver authorizing release of their medical records.
- (c) Witness interviews including the injured party or person who was subject to the use of force.
- (d) Involved officer(s) administrative statements, may not be required. However if an administrative interview of the involved officer is necessary, it must be conducted only in compliance with Government Code §3303, et seq.
- (e) Photographs and/or video of the injuries.
- (f) Any available audio or video recordings
  - 1. If no audio or video recordings are available, the supervisor must include an explanation for their absence.
- (g) Any relevant evidence.

#### **300.5.3 SUPERVISOR INJURY REVIEW (FORM 809) OR INTERNAL INVESTIGATION FORMAT**

Deciding on whether to document the incident on a Supervisor's Use of Force (Form 809) or as an Internal Investigation Format is a matter of severity, absence or presence of corroborating facts and statements or at the discretion of the Watch or Division Commander. In all cases where the supervisor elects to administratively interview the involved officer(s) or where there is distinct evidence of a policy violation then the Internal Investigation Format shall be required.

Absent an administrative Interview of the involved officer(s), form 809 may be used if the use of force, injury, statements and supporting facts are unequivocal. For instance, if facts and statements corroborate that a prisoner fell and suffered abrasions to his arms and knees as a direct result of his fall during the chase then the use of form 809 would be appropriate. However, under the same circumstances, if the supervisor elected to conduct an administrative interview of the involved officer(s) then the officer(s) must be afforded all the rights under 3303, et seq. and the Internal Investigation Format would be required.

In another similar scenario the supervisor arrives at a scene where the suspect is handcuffed and has abrasions on his arms and knees. However he is complaining of pain to his stomach from being struck with a baton by the officer(s). His statement suggests factual inconsistency and will require a more in-depth investigation therefore the Internal Investigation Format would be a better format to address any inconsistencies, even if an Administrative Interview of the officer(s) was not conducted. In either chosen form of documentation, the report shall be submitted to the Watch Commander within a reasonable time for review.

- (a) The approved copy shall be forwarded to the Division Commander for review and approval.
- (b) Completed Internal Investigation Format investigations shall be maintained by the Professional Standards Bureau in accordance with the City of Fullerton retention schedule.
- (c) Completed and approved Supervisor Injury Reviews (form 809) shall be maintained by the Technical Services Bureau in accordance with the City of Fullerton retention schedule.

## Deadly Force Review

### 302.1 PURPOSE AND SCOPE

The purpose of this policy is to establish a process to review the use of deadly force by employees of this department.

### 302.2 REVIEW BOARD

The Fullerton Police Department is charged with the important responsibility of objectively evaluating the use of deadly force. It is the policy of this department to convene a Use of Deadly Force Review Board when the use of deadly force by an employee results in serious injury or death to a person.

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

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

#### 302.2.1 COMPOSITION OF THE BOARD

The Use of Deadly Force Review Board shall be comprised of the following persons:

- Two Lieutenants, appointed by Staff

The senior ranking member will serve as chairperson.

The chairperson will convene the Use of Deadly Force Review Board as necessary. The division or unit supervisor will ensure that all relevant reports, documents, and materials are available for consideration and review by the Board.

#### 302.2.2 RESPONSIBILITIES OF THE BOARD

The Use of Deadly Force Review Board is empowered to conduct an administrative investigation into the circumstances of an incident. The Board membership may request further investigation, call persons to present information, and may request that the involved employees appear before the Board. The involved employees will be notified seven (7) calendar days in advance of the meeting of the Board and may be represented by legal counsel and/or other representation through all phases of the review process.

Absent an expressed waiver from the employee, no more than two members of the Board may ask questions of the involved employee.

If it appears that the actions of the employee(s) may result in criminal charges or disciplinary action by the Department, the Board will conduct the interviews in accordance with department disciplinary procedures. The Board does not have the authority to recommend discipline. The Board shall make a finding and such finding will be limited to one of the following:

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



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After the board has concluded, the board chairperson will submit written findings of the board to the employee's Division Commander. After review by the Division Commander, a copy of the entire report will be forwarded to Administrative Staff for review and appropriate action.

At the conclusion of the review process, a copy of all relevant reports and information will be filed with Professional Standards Bureau Manager.

Upon reaching a specific finding, the board may recommend follow-up action to address training needs for department personnel but shall refrain from making specific reference to the facts of the incident.

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## Shooting Policy

### 304.1 PURPOSE AND SCOPE

The purpose of the shooting policy is to establish procedures for the use and reporting of incidents involving the discharge of firearms. This policy is for internal use only and does not increase the Department's and/or an officer's civil or criminal liability in any way. Violations of this policy can only form the basis for departmental administrative actions.

#### 304.1.1 POLICY

It is the policy of this department to resort to the use of a firearm, when it appears to be objectively reasonable, and generally:

- (a) An officer may use deadly force to protect himself/herself or others from what he/she reasonably believe would be an imminent threat of death or serious bodily injury.
- (b) An officer may use deadly force to effect the arrest or prevent the escape of a suspected felon when the officer has probable cause to believe that the suspect has committed or intends to commit a felony involving the inflicting or threatened inflicting of serious bodily injury or death and the officer reasonably believes that there is an imminent or future potential risk of serious bodily injury or death to others if the suspect is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force where feasible.
- (c) To stop a dangerous animal.
  - 1. Officers are authorized to use deadly force against an animal in circumstances where the animal reasonably appears to pose an imminent threat to human safety and alternative methods to neutralize the threat are not reasonably available or would likely be ineffective.
  - 2. In circumstances in which officers have sufficient advanced notice that a potentially dangerous domestic animal (e.g. dog) may be encountered, such as in the serving of a search warrant, officers should develop reasonable contingency plans for dealing with the animal without the use of deadly force (e.g. fire extinguisher, Taser, OC Spray, animal control officer). Nothing in this policy shall prohibit any officer from resorting to deadly force to control a dangerous animal if circumstances reasonably dictate that a contingency plan has failed or becomes impractical.
- (d) 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 .
- (e) For target practice at an approved range.

Where feasible, a warning should be given before an officer resorts to deadly force as outlined (a) and (b) above. A specific warning that deadly force will be used is not required by this policy; only that a warning be given if feasible.

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### *Shooting Policy*

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#### **304.1.2 WARNING 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.

#### **304.1.3 MOVING VEHICLES**

Shots fired at or from a moving vehicle are rarely effective and are generally discouraged.

- (a) Unless it reasonably appears that it would endanger officers or the public, officers are expected to move out of the path of any approaching vehicle.
- (b) This is not intended to restrict an officer's right to use deadly force directed at the operator of a vehicle when it is reasonably perceived that the vehicle is being used as a weapon against the officer or others.
- (c) Officers may use deadly force to stop a fleeing suspect when the officer has probable cause to believe that the suspect 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 or future potential risk of serious bodily injury or death to others if the suspect is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force when feasible.

#### **304.1.4 REPORT OF WEAPON DISCHARGE**

Except during training or recreational use, any member who discharges a weapon accidentally or intentionally, on or off-duty, shall make a verbal report to his/her supervisor as soon as circumstances permit. If on-duty at the time of the incident the member shall file a written report with his/her Division Commander prior to the end of shift and if off-duty, as directed by the supervisor but no later than the end of the next regularly scheduled shift.

#### **304.1.5 UNINTENDED WEAPON DISCHARGE DURING TRAINING**

Any employee, who discharges a weapon unintentionally during firearms training, shall notify the Rangemaster. The Rangemaster shall submit a memo describing the circumstances to the Professional Standards Bureau Manager, which will be reviewed and placed in the range training file. The Rangemaster will provide necessary remedial training to address the problem. For purposes of this section, in the absence of the Department Rangemaster, the person in charge of the training session will be deemed the Rangemaster.

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## Leg Restraint Device

### 306.1 PURPOSE AND SCOPE

The proper use and application of a leg restraint device can reduce the potential of injury and damage to property when dealing with violent or potentially violent persons. This section provides guidelines, policy and procedures for the proper use of these devices.

### 306.2 POLICY

When an officer deems it reasonable to restrain the legs of a violent or potentially violent person during the course of detention, arrest and/or transportation, only restraint devices approved by the Department shall be used, and only in the departmentally approved manner for such temporary immobilization of the legs.

### 306.3 AUTHORIZED RESTRAINT

The RIPP Hobble manufactured by RIPP Restraints, Inc., Orange City, Florida is the only restraint authorized by this department. Officers shall only use the RIPP Hobble restraint supplied by the Department.

### 306.4 USE GUIDELINES

In determining whether to use the restraint, officers should consider the following:

- (a) If the officer and/or others are subject to harm due to the assaultive behavior of a violent, resisting and/or attacking suspect.
- (b) If it is reasonable to protect the suspect from his/her own actions which would place him/her in danger 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) The restraint shall be used only after a person has been handcuffed.

#### 306.4.1 MEDICAL CONSIDERATIONS

Prior to booking or release, medical assistance shall be obtained for any person who has sustained visible injury, expressed a complaint of an injury or continuing pain, or who has been rendered unconscious. 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.

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond physical characteristics and imperiousness 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 and should be examined by qualified medical personnel as soon as practicable. Any individual exhibiting signs of distress after such an encounter shall be medically cleared prior to booking.

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

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#### **306.5 PROCEDURE**

The restraint device is designed to reduce the likelihood of injury to the restrained person or others, and to reduce the likelihood of property damage caused by the restrained person by preventing them from using his/her legs in a manner likely to result in injury or damage. The restraint will only be used to bind and immobilize a person's legs. Only those officers trained in the use of the restraint are authorized to employ it on any person. The following guidelines shall be used when applying the restraint device:

- (a) If practical, officer(s) should notify a supervisor of the intent to apply the restraint. In all cases, a supervisor shall be notified as soon as practical after the application of the restraint.
- (b) Once the person's legs have been bound, the safety clip of the restraint may be attached to the chain of the handcuffs, insuring enough slack is left to allow the person to sit in an upright position.
- (c) Absent a medical emergency, the person being restrained shall remain restrained until the officer arrives at the jail or other facility or the person no longer poses a threat.
- (d) Once secured, the person should be placed in a seated or upright position and shall not be placed on his/her stomach for an extended period as this may potentially reduce the person's ability to breathe.
- (e) The restrained person should be constantly watched by an officer while in the restraint. The officer is to ensure the person does not roll onto and remain on his/her stomach.
- (f) The officer should look for signs of labored breathing and, where practical, take appropriate steps to relieve and minimize any obvious factors contributing to this condition.

#### **306.5.1 TRANSPORTING RESTRAINED PERSONS**

When transporting a person who has been restrained, officers shall observe the following procedures:

- (a) Restrained suspects may be transported in a patrol unit. They should be seated in an upright position and secured by a seat belt. The long lead of the restraint should be placed outside the rear door and wrapped around the door pillar bringing it up through the passenger front door to prevent the lead from dragging on the ground. When the person cannot be transported in a seated position he/she should be taken by ambulance/paramedic unit.
- (b) When taken by ambulance/paramedic unit, the restrained person shall be accompanied by an officer. The transporting officer should inform medical personnel that positional asphyxia is a concern and that the person should remain in an upright position where practicable. If medical personnel determine that it is in the best interest of the restrained person to be transported while lying down, the person should be kept on his/her side or back with appropriate adjustments to restraints so that the person's arms are not pinned beneath them.
- (c) Officers shall inform the jail staff that a restraint device was used on the arrestee prior to arrival at the jail.

#### **306.6 DOCUMENTATION**

Anytime the restraint device is used, the circumstances requiring its use shall be documented in the related report(s). The officer should include the following in the report:

- (a) The amount of time the suspect was restrained
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- (b) How the suspect was transported and the position of the suspect
- (c) Observations of the suspect's physical and physiological actions
- (d) Any known or suspected drug use or other medical problems

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## Control Devices and Techniques

### 308.1 PURPOSE AND SCOPE

To reduce and minimize altercation-related injuries to officers and suspects, the Department authorizes the use of selected control devices. Certain control devices are provided in order to control violent or potentially violent suspects. It is anticipated that the use of these devices will generally result in fewer altercation-related injuries to officers and suspects. The below procedures are for the use and maintenance of control devices (e.g., baton, oleoresin capsicum (OC) spray and tear gas). Only those control devices that have been approved by the Chief of Police or his/her designee are authorized to be carried by members of this department.

#### 308.1.1 WHEN DEVICES MAY BE USED

When a decision has been made to restrain or arrest a violent or threatening suspect or subject, an approved control device may only be used when its use appears reasonable under the circumstances.

#### 308.1.2 REVIEW, INSPECTION AND APPROVAL

Every control device will be periodically inspected by the department Armorer or Rangemaster, or the designated instructor for a particular control device.

#### 308.1.3 TRAINING FOR CONTROL DEVICES

- (a) Only officers trained and having shown adequate proficiency in the use of any control device and this agency's Use of Force policy are authorized to carry the device. Proficiency training must be monitored and documented by a certified weapons or tactics instructor.
- (b) Training for all control devices should occur every two years at a minimum.
- (c) All training and proficiency for control devices will be documented in the officer's training file.
- (d) Officers failing to demonstrate proficiency with the weapon or knowledge of this agency's Use of Force policy will be provided remedial training. If, after two additional attempts, an officer still cannot demonstrate proficiency with a weapon or knowledge of this agency's Use of Force policy, the officer may be subject to discipline.

### 308.2 BATON GUIDELINES

The baton is authorized for use when, based upon the circumstances perceived by the officer, such force appears objectively reasonable to result in the safe control of the suspect.

The need to immediately incapacitate the 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 may cause serious bodily injury or death to the officer or others.

### 308.3 TEAR GAS GUIDELINES

The use of tear gas for crowd control, crowd dispersal or against barricaded suspects shall be based on the circumstances. The Watch Commander, Incident Commander or Crisis Response Unit Commander may authorize the delivery and use of tear gas, evaluating

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### *Control Devices and Techniques*

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all conditions known at the time and determining that such force reasonably appears objectively reasonable to result in the safe control of the suspect(s). When practical, fire personnel should be alerted or summoned to the scene to control any fires and to assist in providing medical aid or gas evacuation when the scene is safe. Only officers or supervisors trained in the use of tear gas weapons should discharge such devices at the scene.

#### **308.4 CHEMICAL AGENTS SPRAY GUIDELINES**

Only authorized personnel may possess and maintain department issued oleoresin capsicum spray. Chemical agents are weapons used to minimize the potential for injury to officers, offenders, or other persons. They should be used only in situations where such force is objectively reasonable.

##### **308.4.1 REQUIRED INSTRUCTION FOR USE**

All personnel authorized to carry oleoresin capsicum spray, shall complete the required course of instruction prior to possessing and using the oleoresin capsicum spray.

##### **308.4.2 CARRYING OF OLEORESIN CAPSICUM SPRAY**

Uniformed field personnel carrying the oleoresin capsicum spray shall carry the device in its holster on the equipment belt or a Department approved external ballistic vest. Plainclothes and non-field personnel may carry the oleoresin capsicum spray as authorized, consistent with the needs of their assignment or at the direction of their supervisor.

Canisters involved in any type of malfunction or damage shall be turned in to the Rangemaster for exchange. Damage to City Property forms shall also be forwarded to the appropriate supervisor and shall explain the cause of damage.

##### **308.4.3 PEPPER PROJECTILE SYSTEMS**

Pepper projectiles are plastic spheres that are filled with a derivative of oleoresin capsicum (OC) powder. A compressed gas launcher delivers the projectiles with enough force to burst the projectiles on impact, releasing the OC powder. The potential exists for the projectiles to inflict injury if they strike the head, neck, spine or groin. Therefore, personnel deploying a pepper projectile system 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. The use of a pepper projectile system is subject to the following requirements:

- (a) Officers encountering a situation that requires the use of a pepper projectile system shall notify a supervisor as soon as practicable. 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.
- (b) Only personnel certified as having completed department-approved training on the use of pepper projectile systems shall be allowed to deploy and use pepper projectile systems.
- (c) Each deployment of a pepper projectile system shall be documented. This includes situations where the launcher was directed toward the suspect, whether or not the launcher was used. Accidental discharges shall be promptly reported to a supervisor and documented on the appropriate report form. Only non-incident deployments, such as training and product demonstrations, are exempt from the reporting requirement.



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#### **308.4.4 TREATMENT FOR OC SPRAY EXPOSURE**

Persons who have been affected by the use of chemical agents should be promptly provided with the proper solution to cleanse the affected areas. Those persons who complain of further severe effects shall be afforded a medical examination by competent medical personnel.

#### **308.4.5 REPORT OF USE**

All uses of chemical agents shall be documented in the related arrest/crime report.

#### **308.5 KINETIC ENERGY PROJECTILES**

This department is committed to reducing the potential for violent confrontations when suspects are encountered. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury.

Kinetic energy projectiles are approved by the Department and are fired from 12 gauge shotguns or 37/40 mm launchers. Certain munitions can be used in an attempt to de-escalate a potentially deadly situation, with a reduced potential for death or serious physical injury.

##### **308.5.1 DEPLOYMENT**

Approved munitions are justified and may be used to compel an individual to cease his/her actions when such munitions present a reasonable option for resolving the situation at hand.

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 persons, and officers takes priority over the safety of subjects engaged in criminal or suicidal behavior.

##### **308.5.2 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 her/himself or others
- (c) Is engaged in riotous behavior or is throwing rocks, bottles, or other dangerous projectiles at people and/or officers

##### **308.5.3 DEPLOYMENT 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 capacity/capability.
- (e) The proximity of weapons available to the subject.
- (f) The officer's versus the subject's physical factors (e.g., 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.

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- (h) Distance and angle to target.
- (i) Type of munitions employed.
- (j) Type and 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.

#### **308.5.4 DEPLOYMENT DISTANCES**

Officers should keep in mind the manufacturer's recommendations regarding deployment when using control devices, but are not solely restricted to use according to these manufacturer recommendations. Each tactical situation must be evaluated on the totality of circumstances at the time of deployment.

#### **308.5.5 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 when deadly force is not reasonably justified.

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 objectively reasonable to accomplish immediate incapacitation in order to prevent serious injury or death and other reasonable methods have failed or reasonably appear ineffective.

#### **308.5.6 APPROVED MUNITIONS**

Only department approved kinetic energy munitions shall be carried and deployed.

#### **308.5.7 USE OF KINETIC ENERGY PROJECTILES**

Officers assigned to the Crisis Response Unit, who have completed a departmental training course may carry and employ 12 gauge or 37/40 mm projectiles while on duty or while performing Special Weapons and Tactics (SWAT) missions.

#### **308.5.8 TRAINING REQUIRED FOR USE**

Personnel who have successfully completed an approved departmental training course shall be authorized to use kinetic energy projectiles. Officers deploying kinetic energy projectiles will complete an annual recertification course.

### **308.6 RESPONSIBILITIES**

#### **308.6.1 WATCH COMMANDER RESPONSIBILITIES**

The Watch Commander shall monitor the use of control devices in the same manner as all other use of force incidents.

- (a) The Watch Commander may authorize the use of a control device by selected personnel or members of specialized units provided the person(s) authorized has/have the required training.
- (b) The Watch Commander shall review each use of control devices by any personnel within his or her command.
- (c) The Watch Commander shall ensure training on the use of control devices is provided as needed.

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#### **308.6.2 RANGEMASTER RESPONSIBILITIES**

The Rangemaster shall control the inventory and shall issue all control devices. All damaged, inoperative and/or expended control devices shall be returned to the Rangemaster for disposition, repair or replacement.

#### **308.6.3 MAINTENANCE RESPONSIBILITY**

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

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

Any application of a control device and/or technique listed within this section shall be documented pursuant to Policy Manual § 300.4 and 300.5.

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## **Electro-Muscular Disruption Technology Guidelines**

### **309.1 PURPOSE AND SCOPE**

The Electro-Muscular Disruption Technology (EMDT) device is intended to control a violent or potentially violent individual while minimizing the risk of serious injury. It is anticipated that the appropriate use of such a device will result in fewer serious injuries to officers and suspects.

#### **309.1.1 ELECTRONIC CONTROL DEVICES**

The Taser™ is an Electronic Control Device (E.C.D.) that is currently approved for use by this Department, and for purpose of this policy, the term (Taser™) is intended to relate to any Department approved and authorized E.C.D.

### **309.2 POLICY**

Personnel who have completed department-approved training may be issued the EMDT device for use during their current assignment. Personnel leaving a particular assignment may be expected to return it to the department's inventory.

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

When the EMDT device is carried as part of a uniformed officer's equipment, the EMDT device shall be carried on the side opposite the duty weapon.

- (a) All EMDT devices shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.
- (b) Whenever practicable, officers should carry a total of two or more EMDT device cartridges on their person when carrying the EMDT device.
- (c) Officers shall be responsible for ensuring that their issued EMDT device is properly maintained and in good working order at all times.
- (d) Officers should never hold both a firearm and the EMDT device at the same time.

### **309.3 VERBAL AND VISUAL WARNINGS**

A verbal warning of the intended use of the EMDT 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 for the following:

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

If, after a verbal warning, an individual is unwilling to voluntarily comply with an officer's lawful orders and it appears both reasonable and practical under the circumstances, the officer may, but is not required to, display the electrical arc (provided there is not a cartridge

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loaded into the EMDT device) or the laser in a further attempt to gain compliance prior to the application of the EMDT 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 warn was given or the reasons it was not given shall be documented by the officer applying (not just displaying) the EMDT device in the related report.

#### **309.4 USE OF THE EMDT DEVICE**

As with any law enforcement equipment, the EMDT device has limitations and restrictions requiring consideration before its use. The EMDT device should only be used when its operator can safely approach the subject within the operational range of the EMDT device. Although the EMDT device is generally effective in controlling most individuals, officers should be alert to the potential for failure and be prepared with other options.

##### **309.4.1 FACTORS TO DETERMINE REASONABLENESS OF FORCE**

The application of the EMDT device is likely to cause intense, but momentary, pain. As such, officers should carefully consider and balance the totality of circumstances available prior to using the EMDT device including, but not limited to, the following factors:

- (a) The conduct of the individual being confronted (as reasonably perceived by the officer at the time).
- (b) Officer/subject factors (i.e., age, size, relative strength, skill level, injury/exhaustion, number of officers vs. subjects).
- (c) Influence of drugs/alcohol (mental capacity).
- (d) Proximity of weapons.
- (e) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (f) Time and circumstances permitting, the availability of other options (what resources are reasonably available to the officer under the circumstances).
- (g) Seriousness of the suspected offense or the reason for contact with the individual.
- (h) Training and experience of the officer.
- (i) Potential for injury to citizens, officers and suspects.
- (j) Risk of escape.
- (k) Other exigent circumstances.

##### **309.4.2 APPLICATION OF THE EMDT DEVICE**

Authorized personnel may use the EMDT device when circumstances known to the officer at the time indicate that such application is reasonable to control a person in any of the following circumstances:

- (a) The subject is violent or physically resisting.
- (b) A subject who by words or action has demonstrated an intention to be violent or to physically resist and who reasonably appears to present the potential to harm officers, him/herself or others.
  - 1. When practicable, the officer should give a verbal warning of the intended use of the EMDT device followed by a reasonable opportunity to voluntarily comply.

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2. The officer must be able to articulate a reasonable belief that other available options appeared ineffective, impractical or would have presented a greater danger to the officer, the subject or others.
- (c) Absent meeting the conditions set forth in (a) or (b) above, or a reasonable belief that an individual has committed or threatened to commit a serious offense, mere flight from a pursuing officer shall not serve as good cause for the use of the EMDT device to apprehend an individual.

#### **309.4.3 SPECIAL DEPLOYMENT CONSIDERATIONS**

The use of the EMDT device should generally be avoided in the following situations unless the totality of the circumstances indicate that other available options reasonably appear ineffective, impractical, 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 EMDT device:

- (a) Pregnant females.
- (b) Elderly individuals or obvious juveniles.
- (c) Individuals who are handcuffed or otherwise restrained.
- (d) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any flammable material.
- (e) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).
- (f) Any person holding or wearing a suspected explosive device.

Because the application of the EMDT device in the drive-stun mode (i.e., direct contact without darts) relies primarily on pain compliance and requires close proximity to the subject, additional caution should be exercised. The application in drive-stun mode should be limited to brief applications in which pain compliance would be objectively reasonable to achieve control.

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

#### **309.4.4 TARGETING CONSIDERATIONS**

While manufacturers generally recommend that reasonable efforts should be made to target lower center mass and to avoid intentionally targeting the head, neck, chest and groin, it is recognized that the dynamics of each situation and officer safety may not permit the officer to limit the application of the EMDT device darts to a precise target area. As such, officers should take prompt and ongoing care to monitor the condition of the subject if one or more darts strikes the head, neck, chest or groin until he/she is released to the care of paramedics or other medical personnel.

#### **309.4.5 MULTIPLE APPLICATIONS OF THE EMDT DEVICE**

If the first application of the EMDT device appears to be ineffective in gaining control of an individual and if circumstances allow, the officer should consider the following before additional applications of the EMDT device:

- (a) Whether the probes or darts are making proper contact.

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- (b) Whether the application of the EMDT device is interfering with the ability of the individual to comply.
- (c) Whether verbal commands, other options or tactics may be more effective.

This, however, shall not preclude any officer from deploying multiple, reasonable applications of the EMDT device on an individual.

#### **309.4.6 REPORT OF USE**

All EMDT device discharges shall be documented in the related arrest/crime report, the EMDT device report form and notification made to a supervisor in compliance with Policy § 300.4.1. Accidental discharges of a EMDT device cartridge will also be documented on the EMDT device report form. Any report documenting the discharge of a EMDT device cartridge will include the cartridge serial number and an explanation of the circumstances surrounding the discharge.

The onboard EMDT device memory will 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, Anti-Felon Identification (AFID) tags should be collected and the expended cartridge along with both probes and wire should be submitted by the officer collecting the cartridge into evidence for future reference. 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 MEDICAL TREATMENT**

Absent extenuating circumstances or unavailability, only qualified personnel, including certified paramedics, should carefully remove EMDT device darts from a person's body. Used EMDT device darts shall be considered a sharp biohazard, similar to a used hypodermic needle. Universal precautions should be taken accordingly.

All persons who have been struck by EMDT device darts 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 EMDT device darts are lodged in a sensitive area (e.g., groin, female breast, near the eyes).
- (e) The person requests medical treatment.

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 and should be examined by qualified medical personnel as soon as practicable. Any individual exhibiting signs of distress after such an encounter shall be medically cleared 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.

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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 receiving custody or any person placed in a position of providing care that the individual has been subjected to the application of the EMDT device.

#### **309.6 TRAINING**

In addition to the initial department approved training required to carry and use a EMDT device, any personnel who have not carried a EMDT device as a part of their assignment for a period of six months or more shall be recertified by a department approved EMDT device instructor prior to again carrying or using the device. A reassessment of an officer's knowledge and/or practical skill may be required at any time if deemed appropriate by the Services Division Commander.

The Services Division Commander should ensure that all training includes the following:

- (a) A review of this policy.
- (b) A review of the Use of Force Policy § 300.
- (c) Target area considerations, to include techniques or options to reduce the intentional application of probes near the head, neck, chest and groin.
- (d) De-escalation techniques.



## **Officer-Involved Shooting**

### **310.1 PURPOSE AND SCOPE**

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

Nothing in this policy is intended to increase, modify, or in any way affect the current legal standards nor shall any deviation from these guidelines be considered a breach of any legal standard.

### **310.2 INVESTIGATION RESPONSIBILITY**

This Department conforms to the Orange County Chiefs of Police and Sheriff's Association 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 Commander
- (b) A criminal investigation of the involved officer(s) conducted by an outside agency, including the District Attorney's Office or the Attorney General's Office
- (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 FULLERTON POLICE DEPARTMENT OFFICER WITHIN THIS JURISDICTION**

The Fullerton Police Department is responsible for the criminal investigation of the suspect's actions, the civil investigation, and the administrative investigation. The independent criminal investigation of the officer will be conducted by the Orange County District Attorney's Office.

#### **310.4.2 ALLIED AGENCY'S OFFICER WITHIN THIS JURISDICTION**

The Fullerton 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).

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#### **310.4.3 FULLERTON POLICE DEPARTMENT 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 Fullerton Police Department will conduct a timely civil and/or administrative investigation as directed by Chief of Police.

#### **310.4.4 INVESTIGATION RESPONSIBILITY MATRIX**

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

	<b>Criminal Investigation of Suspect(s)</b>	<b>Criminal Investigation of Officer(s)</b>	<b>Civil Investigation</b>	<b>Administrative Investigation</b>
<b>FPD Officer in This Jurisdiction</b>	FPD Investigators	District Attorney's Office or Joint with D.A's Office	Fullerton Civil Liability Team	Deadly Force Review Board
<b>Allied Agency's Officer in This Jurisdiction</b>	FPD Investigators	District Attorney's Office or Joint with D.A's Office	Involved Officer's Department	Involved Officer's Department
<b>FPD Officer in Another Jurisdiction</b>	Agency where incident occurred	Decision made by agency where incident occurred	Fullerton Civil Liability Team	Deadly Force Review Board

#### **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 or public safety information 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 (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.)
  2. Shooter Officer(s) shall be advised they may consult with an attorney prior to providing a statement.

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

#### **310.5.2 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 Division Commander.

#### **310.5.3 NOTIFICATIONS**

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

- Chief of Police
- Uniform Division Commander
- Detective Division Commander
- District Attorney OIS roll-out team
- Professional Standards Bureau supervisor
- Deadly Force Review Board
- Civil Liability Response Team
- Psychological/Peer support personnel
- Coroner (if necessary)
- Officer's POA President or other executive Board member

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, Detective 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 Division Commander.

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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:

- (a) Any request for department or legal representation will be accommodated.
- (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.
- (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.
  3. 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 Detective Bureau supervisor to assign appropriate detective personnel to handle the investigation of related crimes. Detectives will be assigned to work with investigators from the District Attorney's Office and may 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 the designated detective supervisor for approval. Privileged reports shall be maintained exclusively by those personnel authorized such access. Administrative reports will be forwarded to the appropriate Division Commander.

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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 Bureau 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.
- (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.

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

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

#### **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 Bureau and will be considered a confidential peace officer personnel file.

- (a) 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.
- (b) 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 or attorney to be present during the interview (Government Code § 3303(i)).
  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

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(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 Bureau 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.

## 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.

The following weapons are approved for use by officers of this department:

#### 312.2.1 DUTY WEAPONS

The authorized departmental issued handgun is the Glock Model 22 .40 .

The Rangemaster maintains a list of additional handguns in .40, .45 and 9mm calibers that are approved for on-duty use. Only personnel in plainclothes assignment can carry the 9mm. Uniform officers are limited to .40 or .45 caliber handguns.

#### 312.2.2 AUTHORIZED SECONDARY WEAPONS

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

- (a) The weapon shall be of good quality and workmanship (e.g., Colt, Smith & Wesson, Browning, Sig-Sauer, etc.)
- (b) Only one secondary weapon may be carried at a time
- (c) The purchase of the weapon and ammunition shall be the responsibility of the officer
- (d) The weapon 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 weapon shall be subject to inspection whenever deemed necessary
- (f) Ammunition shall be the same as Department issue. If the caliber of the weapon is other than Department issue, the Chief of Police shall approve ammunition
- (g) Personnel shall qualify with the secondary weapon under range supervision. Officers must demonstrate their proficiency, safe handling and serviceability of the weapon.
- (h) Personnel shall provide written notice of the make, model, color, serial number, and caliber of a second weapon to the Rangemaster

#### 312.2.3 AUTHORIZED OFF-DUTY WEAPONS

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 will be required to meet the following guidelines:



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- (a) The weapon shall be of good quality and workmanship (e.g., Colt, Smith & Wesson, Browning, Sig-Sauer, etc.).
- (b) The purchase of the weapon and ammunition shall be the responsibility of the officer.
- (c) The weapon 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.
- (d) It will be the responsibility of the officer to submit the weapon to the Rangemaster for inspection prior to being carried off-duty. The Rangemaster shall assure that the officer is proficient in handling and firing that weapon and it will be carried in a safe manner. The weapon shall be subject to inspection whenever deemed necessary. The officer will successfully qualify with the weapon prior to it being carried and thereafter once every six months. The range qualification dates will be specified by the Rangemaster.
- (e) A complete description of the weapon(s) shall be contained on the qualification record approved by the Rangemaster.
- (f) If any member desires to own more than one weapon utilized while off duty, he/she may do so, as long as the officer meets all the requirements set forth in this policy for each weapon used.
- (g) Ammunition should be of good quality and manufactured by a departmentally approved company as suggested by the Rangemaster.
- (h) When armed, whether on or off duty, officers shall carry their badge and department identification.

#### **312.2.4 AMMUNITION**

Officers shall carry only department-authorized ammunition. 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 an 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.

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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) Any member who discharges his/her weapon accidentally or intentionally, on or off-duty, except during training or recreational use, shall make a verbal report to his/her supervisor as soon as circumstances permit and, if the occurrence was on-duty, shall file a written report with their Division Commander prior to the end of shift. If off-duty, as directed by the supervisor.
- (d) Officers shall not clean, repair, load or unload a firearm anywhere in the Department, except where clearing barrels are present.
- (e) Shotguns or rifles removed from vehicles or equipment storage room shall be loaded and unloaded in the parking lot and outside of the vehicle.
- (f) Officers shall not place or store any firearm or other weapon on Department premises except where the place of storage is locked. No one shall carry firearms into the jail section or any part thereof when securing or processing a prisoner, but shall place all firearms in a secured location. It shall be the responsibility of the releasing officer to make sure that persons from outside agencies do not enter the jail section with any firearm.
- (g) Officers shall not use any automatic weapon, heavy caliber rifles, gas or other types of chemical weapon (from the armory), except with approval of a supervisor.
- (h) 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 and 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 primary duty weapon, a replacement weapon will be issued to the officer until the duty weapon is again rendered 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.

#### **312.4 FIREARMS QUALIFICATIONS**

All sworn personnel below the rank of Lieutenant are required to qualify monthly with their duty weapon on an approved range course or the Department shooting simulator. All sworn

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personnel at the rank of Lieutenant and above will be required to qualify once every six months.

The Rangemaster shall keep accurate records of monthly qualifications, repairs, maintenance, training or other records as directed by the Services Division Commander.

In addition to regular qualification schedules, the Training Coordinator shall schedule training consistent with State/Federal accreditation guidelines as well as additional training as directed by Staff. Training issues shall include use of force training, to all personnel carrying a firearm to demonstrate their knowledge and understanding of the Department's Use of Force policy.

#### **312.4.1 NON QUALIFICATION**

If any officer is unable to qualify for any reason, including injury, illness, duty status, or scheduling conflict, that officer shall submit a memorandum to his or her immediate supervisor prior to the end of the required shooting period.

Members who repeatedly fail to qualify will be relieved from field assignment and appropriate disciplinary action may follow.

Sworn members who fail to qualify on their first shooting attempt shall be provided remedial training until proficiency is demonstrated and will be subject to the following requirements:

- (a) Additional range assignments may be required until consistent weapon proficiency is demonstrated
- (b) Members shall be given credit for a range qualification after remedial training and a qualifying score is obtained
- (c) No range credit will be given for the following
  1. Unauthorized range make-up
  2. Failure to qualify after remedial training

#### **312.5 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 Services Division Commander after each range date. Failure of any officer to sign in and out with the Rangemaster may result in non-qualification.

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.

#### **312.6 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.

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#### **312.6.1 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.

#### **312.7 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 Fullerton Police Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the officer's travel. If approved, TSA will send the Fullerton 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.
- (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.

#### **312.7.1 NLETS ARMED FLIGHT REQUEST INSTRUCTIONS**

National Law Enforcement Telecommunication System (NLETS) teletype message form procedure is:

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- (a) The request must be submitted to NLETS 24 hours prior to the flight.
- (b) Each Officer must have their own separate NLETS verification form.
- (c) Obtain the NLETS form by contacting Records or locate the form on the server at(S:\Common\Omni Form\125-R Flying Armed NLETS message) The form must be completed and signed by the Chief or his designate (Division Commander).
- (d) Present the completed form to Records who shall immediately send the message to NLETS.
- (e) NLETS will respond with a verification message with a unique alphanumeric identifier.
- (f) The officer will keep the original message for presentation to the air carrier one hour prior to flight boarding. The officer will make a photocopy of the message and deliver that copy to the Watch Commander.
- (g) Once the flight has been completed, the officer shall forward the original NLETS message to the Professional Standard Bureau and that message will be placed in the officer's training file. If TSA elects to retain or shred the message at the end of the flight, then the copy held by the Watch Commander can be placed in the training file.

#### **312.8 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 United States Code 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 United States Code 926B and C.

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## Vehicle Pursuit Policy

### 314.1 PURPOSE AND SCOPE

Vehicle pursuits expose innocent citizens, law enforcement officers and fleeing violators to the risk of serious injury or death. The primary purpose of this policy is to provide officers with 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 the potential for pursuit-related collisions. 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 pursuits 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. Officer's 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 DEFINED

"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, in failing to yield, 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. Such actions do not constitute a police pursuit.

### 314.2 OFFICER RESPONSIBILITIES

It shall be the policy of this department that a 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.

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#### **314.2.1 WHEN TO INITIATE A PURSUIT**

Officers are authorized to initiate a pursuit when it is reasonable to believe that a suspect is attempting to evade arrest or detention by fleeing in a vehicle.

The following factors individually and collectively shall be considered in deciding whether to initiate 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.
- (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. Pursuits should not be undertaken with a prisoner(s) in the police vehicle.

#### **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 Policy Manual § 314.2.1 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(s).

In addition to the factors listed in Policy Manual § 314.2.1 the following factors should also be considered in deciding whether to terminate a pursuit:

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- (a) Distance between the pursuing officers and the fleeing vehicle(s) 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 renders 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) 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) Directed 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.

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: 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. 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 OFFICERS**

If a two-wheel motorcycle officer initiates the pursuit, that officer shall relinquish his/her role as the primary unit when a four-wheel vehicle joins the pursuit. The motor officer should terminate his/her involvement in the pursuit once a four-wheel vehicle is involved unless requested to continue by the primary unit or a supervisor. Once a secondary four-wheel vehicle has joined the pursuit, the motor officer should terminate his/her involvement. Circumstances may require continued involvement as described in Policy Manual § 314.3. Absent such circumstances, the motor officer shall then reduce speed and proceed lawfully and safely to the termination point of the pursuit if the suspect is apprehended.

##### **314.3.2 VEHICLES WITHOUT EMERGENCY EQUIPMENT**

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



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emergency activities involving serious crimes or life threatening situations. Those officers should 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.

#### **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.

Notify the Communications Center that a vehicle pursuit has been initiated and as soon as practical provide information including, but not limited to:

- (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.

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.

#### **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 shall notify the dispatcher of entry into the pursuit as soon as possible.
- (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.
- (c) If the primary unit is unable to continue the pursuit, the secondary unit shall become the primary unit.
- (d) May take responsibility for broadcasting the pursuit when requested to do so by the primary unit or supervisor.

#### **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:

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- (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 suspect(s).
- (d) Notifying the California Highway Patrol 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 shall be no caravanning, paralleling or following of the pursuit route by units not authorized to join the pursuit. 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 supervisor, trail the pursuit to the termination point in order to provide necessary information and assistance for the arrest of the suspect(s).

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

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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.

#### **314.4 SUPERVISORY CONTROL AND RESPONSIBILITY**

It is the policy of this department that available supervisory and management control will be exercised over all 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) Control and manage FPD units when a pursuit enters another jurisdiction.
- (j) Preparing post-pursuit critique and analysis of the pursuit for training purposes.

##### **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 vehicle pursuit and shall be in overall command.

The Watch Commander shall review all pertinent reports for content and forward to the Division Commander.

#### **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, will switch radio communications to an emergency channel most accessible by participating agencies and units.

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#### **314.5.1 COMMUNICATION CENTER RESPONSIBILITIES**

Upon notification that a pursuit has been initiated, the Communications Center will:

- (a) Coordinate pursuit communications of the involved units and personnel;
- (b) Notify and coordinate with other involved or affected agencies as practical;
- (c) Ensure that a field supervisor is notified of the pursuit;
- (d) Assign an incident number and log all pursuit activities;
- (e) Broadcast pursuit updates as well as other pertinent information as necessary;
- (f) Notify the Watch Commander as soon as practical.

#### **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 or not 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 or not 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 Fullerton 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.

##### **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.

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When a request is made for this department to assist or take over a pursuit from another agency that has entered this jurisdiction, the supervisor should consider these additional following factors:

- (a) Ability to maintain the pursuit.
- (b) Circumstances serious enough to continue the pursuit.
- (c) Adequate staffing to continue the pursuit.
- (d) The public's safety within this jurisdiction.
- (e) Safety of the pursuing officers.

As soon as practical, a supervisor or the 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. 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.

### **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.

#### **314.7.1 WHEN USE AUTHORIZED**

Use of pursuit intervention tactics should be employed only after approval of a supervisor. In deciding whether to use intervention tactics, officers/supervisors should balance the risks of allowing the pursuit to continue with the potential hazards arising from the use of each tactic to the public, the officers and persons in or on the pursued vehicle. With these risks in mind, the decision to use any intervention tactic should be reasonable in light of the circumstances confronting the officer at the time of the decision.

It is imperative that officers act within the bounds of legality, good judgment and accepted practices.

#### **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 is objectively reasonable 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 and

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alternative method. This policy is an administrative guide to direct officers in their decision-making process before the fact of ramming another vehicle. It is not a standard for civil or criminal litigation to judge the propriety of the act; that is a matter for the courts to determine by established law. When ramming is to be employed as a means with which 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 society if not apprehended.
  2. The suspect is driving in willful or wanton disregard for the safety of persons; or, 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 is objectively reasonable under the circumstances, to properly perform their lawful duties.

Unless relieved by a supervisor the primary officer should coordinate efforts to apprehend the suspect(s) following the pursuit. Officers should consider safety of the public and the involved officers when formulating plans to contain and capture the suspect.

#### **314.8 REPORTING REQUIREMENTS**

The following reports should be completed to comply with appropriate local and state regulations:

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

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- (b) Pursuant to Vehicle Code § 14602.1(b), the primary officer shall complete form CHP 187A, Allied Agency Vehicle Pursuit Report, to be reviewed by the Watch Commander and filed with the CHP either electronically or on paper not later than 30 days after the pursuit. This pursuit report shall minimally contain the following information:
1. Whether any person involved in the pursuit or subsequent arrest was injured, specifying the nature of that injury and differentiating between the suspect driver, a suspect passenger and the officers involved.
  2. The violation(s) that caused the pursuit to be initiated.
  3. The identity of the officers involved in the pursuit.
  4. The means or methods used to stop the suspect being pursued.
  5. The charges filed with the court by the district attorney.
  6. The conditions of the pursuit, including, but not limited to, all of the following:
    - (a) Duration
    - (b) Mileage
    - (c) Number of officers involved
    - (d) Maximum number of units involved
    - (e) Time of day
    - (f) Weather conditions
    - (g) Maximum speeds
  7. Whether the pursuit resulted in a collision and a resulting injury or fatality to an uninvolved third party, and the corresponding number of persons involved.
  8. Whether the pursuit involved multiple agencies.
  9. How the pursuit was terminated.
- (c) After first obtaining available information, a field supervisor shall promptly complete an Interoffice Letter, briefly summarizing the pursuit to his/her supervisor. This letter 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 that the pursuit appears to be in compliance with this policy OR additional review and/or follow-up is warranted.

#### **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



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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**

Each sworn member of this department shall certify in writing that they have received, read and understand this policy initially and upon any amendments.

#### **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 reasonable 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 the Communications Center.

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

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

#### **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 the Communications Center. Generally, only one unit should respond Code-3 to any situation. Should another officer believe a Code-3 response is appropriate, the Communications Center shall be notified and the Watch Commander or field supervisor will make a determination as to whether one or more officers driving Code-3 is appropriate.

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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 the Communications Center. 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 the Communications Center of the equipment failure so that another unit may be assigned to the emergency response.

## **Mexican Consulate Notification**

### **317.1 PURPOSE AND SCOPE**

When a Mexican National is found dead from any circumstance, the Mexican Consulate can be of assistance to us and to the family of the deceased. The Mexican Consulate may be able to identify a "John/Jane Doe" victim and they can assist the family with legal issues. As a result, the Mexican Consulate will be notified whenever there is a death involving a Mexican National.

#### **317.1.1 DEFINITION**

A Mexican National is any person born in Mexico who is still a citizen of Mexico.

### **317.2 OFFICER RESPONSIBILITY**

It is the investigating officer's responsibility to forward any information on the deceased, as soon as possible, to the Community Liaison Officer. The information should include a name, if known, a preliminary cause of death and a case number.

### **317.3 COMMUNITY LIAISON OFFICER RESPONSIBILITY**

It is the Community Liaison Officer's responsibility to check with the Watch Commander or an investigation supervisor prior to releasing the information to the Mexican Consulate. Once approval is received, the Community Liaison Officer will make the notification by telephone or Fax.

## Canine Program

### 318.1 PURPOSE AND SCOPE

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

### 318.2 GUIDELINES FOR THE USE OF CANINES

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

- (a) There is a reasonable belief that the individual poses an imminent threat of violence or serious harm to the public, any officer, or the handler.
- (b) The individual is physically resisting or threatening to resist arrest and the use of a canine appears to be objectively reasonable to overcome such resistance.
- (c) The individual(s) is/are believed to be concealed in an area where entry by other than the canine would pose a threat to the safety of officers or the public.

It is recognized that situations may arise that do not fall within the provisions set forth in this policy. In any such case, a standard of objective reasonableness shall be used to review the decision to use a canine in view of the totality of the circumstances.

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

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

#### 318.2.1 PREPARATION FOR UTILIZING A CANINE

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

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

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

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

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

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

#### **318.2.3 USE OF NARCOTIC-DETECTION CANINES**

A narcotic-detection-trained canine may be used in accordance with current law under the following circumstances:

- (a) To assist in the search for narcotics during a search warrant service.
- (b) To obtain a search warrant by using the detection canine in support of probable cause.
- (c) To search vehicles, buildings, bags and any other articles deemed necessary.

A narcotic-detection canine will not be used to search a person for narcotics.

#### **318.2.4 GUIDELINES FOR NON-APPREHENSION USE**

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

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

#### **318.2.5 REPORTING CANINE USE, BITES AND INJURIES**

Whenever the police service dog is deployed, a Canine Use Report shall be completed by the handler and turned in to the Unit Coordinator before going off-duty.

Whenever the use of the canine results in a bite or any injury a Canine Use Report Form shall be completed and included with any related incident report.

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The injured party should be transported to an appropriate medical facility if the injury requires medical attention beyond first aid. If the injured party is in custody an officer should remain with the suspect until treatment has been rendered.

Photographs shall be taken of the bite or injury as soon as practicable after tending to the immediate needs of the injured party. Photographs shall be retained as evidence in accordance with current department evidence procedures. It shall be the responsibility of the Unit Coordinator to ensure that such photographs are retained until the potential need for use in any related civil proceeding has expired.

If a subject alleges an injury that is not visible, a supervisor shall be notified and the location of the alleged injury should be photographed as described above.

The Unit Coordinator will maintain liaison with the Animal Control Department to ensure that information regarding canine bites is not retained by its office. Canines used by law enforcement agencies are exempt from impoundment and reporting requirements to the Animal Control Department (Food and Agriculture Code § 31609(b)).

#### **318.2.6 REPORTING CANINE INJURIES**

In the event that a canine is injured, the injury will be immediately reported to the Watch Commander.

Medical care for any injured canine shall follow the protocol established in § 318.6 et seq.

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

#### **318.2.7 ASSIGNMENT OF CANINES**

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

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

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

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

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

##### **318.3.1 REQUEST FOR ASSISTANCE FROM OTHER AGENCIES**

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

- (a) Canine teams shall not be used for any assignment that is not consistent with this policy.
- (b) The handler has the ultimate authority to decide whether the canine should be used for any specific assignment.



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- (c) Canine teams shall not be called out while off-duty or used outside the boundaries of the City of Fullerton unless authorized by the Watch Commander or the Unit Coordinator.
- (d) It shall be the responsibility of the canine handler to coordinate with outside agency personnel in order to minimize the risk of unintended injury.

#### **318.3.2 REQUEST FOR PUBLIC DEMONSTRATIONS**

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

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

#### **318.4 SELECTION OF CANINE HANDLERS**

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

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

#### **318.5 CANINE HANDLER RESPONSIBILITIES**

##### **318.5.1 AVAILABILITY**

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

##### **318.5.2 CARE FOR THE CANINE AND EQUIPMENT**

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

- (a) Unless required by a particular application, the handler shall not expose the canine to any foreseeable and unreasonable risk of harm.
- (b) The handler shall maintain all department equipment under his/her control in a clean and serviceable condition and when not on duty shall maintain the canine unit in a garage, secured from public view.
- (c) When a handler takes a vacation or extended number of days off, the assigned canine vehicle shall be maintained at the Police Department facility.
- (d) Handlers shall permit the Unit Coordinator to conduct spontaneous on-site inspections of affected areas of their residence as well as the canine unit, to verify that conditions and equipment conform to this policy.
- (e) Any changes in the living status of the handler which may affect the lodging or environment of the canine shall be reported to the Unit Coordinator as soon as possible.
- (f) When off-duty, canines shall be maintained in kennels, provided by the City, at the homes of their handlers. When a canine is kenneled at the handler's home, the gate

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shall be secured with a lock. When off-duty, canines may be let out of their kennels while under the direct control of their handlers.

- (g) The canine should be permitted to socialize in the home with the handler's family for short periods of time and under the direct supervision of the handler.
- (h) Under no circumstances will the canine be lodged at another location unless approved by the Unit Coordinator or Watch Commander.
- (i) When off-duty, handlers shall not involve their canines in any activity or conduct unless approved in advance by the Unit Coordinator or Watch Commander.
- (j) Whenever a canine handler anticipates taking a vacation or an extended number of days off, it may be necessary to temporarily relocate the canine. In those situations, the handler shall give reasonable notice to the Unit Coordinator so that appropriate arrangements can be made.

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

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

- (a) Canines shall not be left unattended in any area to which the public may have access.
- (b) When the canine unit is left unattended all windows and doors shall be secured in such a manner as to prevent unauthorized access to the dog. The handler shall also insure that the unattended unit remains inhabitable for the canine.

#### **318.5.4 HANDLER COMPENSATION**

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

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

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

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

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

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

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

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

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

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

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#### **318.7 TRAINING**

Before assignment in the field, each canine team shall be trained and certified to meet current POST standards. Cross-trained dog teams or those dog teams trained exclusively for the detection of narcotics and/or explosives shall be trained and certified to meet the standards established for such detection dogs by the California Narcotic Canine Association or other recognized and approved certification standards.

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.

##### **318.7.1 CONTINUED TRAINING**

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

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

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

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

##### **318.7.3 TRAINING RECORDS**

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

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

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

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

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- (g) Be responsible for scheduling all canine related activities.
- (h) Ensure the canine teams are scheduled for continuous training to maximize the capabilities of the teams.

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

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

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

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

#### **318.9.1 PROCEDURES**

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

- (a) All necessary controlled substance training samples shall be acquired from the Fullerton Police Department's evidence personnel or from allied agencies authorized by Health & Safety Code § 11367.5 to provide controlled substance training samples. All controlled substance training samples shall be weighed and tested prior to dispensing to the individual canine handler
- (b) The weight and test results shall be recorded and maintained by this department;
- (c) Any person receiving controlled substance training samples pursuant to Health & Safety Code § 11367.5 shall maintain custody and control of the controlled substances and shall keep records regarding any loss of, or damage to, those controlled substances
- (d) All controlled substance training samples will be inspected, weighed, and tested quarterly. The results of the quarterly testing shall be recorded and maintained by the canine coordinator with a copy forwarded to the dispensing agency
- (e) All controlled substance training samples will be stored in locked metal boxes at all times, except during training. The locked metal boxes shall be secured in the trunk of the canine handler's assigned patrol unit, or stored in a locked evidence locker. There are no exceptions to this procedure
- (f) The Canine Unit Coordinator shall periodically inspect every controlled substance training sample for damage or tampering and take any appropriate action;
- (g) Any unusable controlled substance training samples shall be returned to the Property Office or to the dispensing agency

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- (h) All controlled substance training samples shall be returned to the dispensing agency upon the conclusion of the training or upon demand by the dispensing agency

#### **318.9.2 IMMUNITY**

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

#### **318.10 USE OF BOMB/EXPLOSIVE DETECTION DOGS**

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

- (a) To assist in the search of a building, structure, area, vehicle or article where an actual or suspected explosive device has been reported or located.
- (b) To conduct preventative searches at locations such as special events, VIP visits, official buildings and other restricted areas. [NOTE: Because a "dog sniff" may be considered a search, such searches of individuals should remain minimally intrusive and shall be strictly limited to the purpose of detecting explosives.]
- (c) To assist with searches at transportation facilities and vehicles (buses, airplanes and trains).
- (d) To assist in the search of scenes where an explosion has occurred and an explosive device or secondary explosive device is suspected.
- (e) At no time will a detection dog be used to render a suspected device "safe" or "clear".

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## Domestic Violence

### 320.1 PURPOSE AND SCOPE

Domestic violence is alleged criminal conduct and it is the policy of the Fullerton Police Department to stress enforcement of criminal laws related to domestic violence, the protection of the victim, and the availability of civil remedies and community resources. This includes the arrest of domestic violence offenders and those who violate protective orders if there is probable cause to believe an offense has occurred.

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 determined to be the most significant, rather than the first, aggressor. In identifying the dominant aggressor, an officer shall consider:

- (a) The intent of the law to protect victims of domestic violence from continuing abuse
- (b) The threats creating fear of physical injury
- (c) The history of domestic violence between the persons involved
- (d) Whether either person acted in self-defense

#### 320.1.1 DEFINITIONS

The Fullerton Police Department "Domestic Violence" policy is drafted in compliance with guidelines established and approved by the Commission on Peace Officer Standards and Training. The following definitions are provided by Penal Code § 13700:

**Abuse** - means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury.

**Domestic Violence** - is abuse committed against an adult or minor who is a spouse, former spouse, cohabitant, former cohabitant, or a person with whom the suspect has had a child or is having or has had a dating or engagement relationship.

**Cohabitant** - means two unrelated adult persons living together for a substantial period of time, resulting in some permanence of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to:

- Sexual relations between the parties while sharing the same living quarters
- Sharing of income or expenses
- Joint use or ownership of property
- Whether the parties hold themselves out as husband and wife
- The continuity of the relationship
- The length of the relationship

The above definition of cohabitant is used for the application of enforcing Penal Code § 273.5. Family Code § 6209 expands the definition of cohabitant to include a person who regularly resides in the household for the application of enforcing Penal Code § 836(d).

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**Officer/Deputy** - means any law enforcement officer employed by a local police department or sheriff's department, consistent with Penal Code § 830.1.

**Victim** - means a person who is a victim of domestic violence.

### **320.2 OFFICER SAFETY**

The investigation of domestic violence cases places officers in emotionally charged and sometimes highly dangerous environments. No provisions of this guideline are intended to supersede the responsibility of all officers to exercise reasonable care for the safety of any officers and parties involved.

### **320.3 ENFORCEMENT OF DOMESTIC VIOLENCE**

It is the intent of the Legislature that the official response to domestic violence stresses the enforcement of the laws to protect the victim and shall communicate the attitude that violent behavior is criminal behavior and will not be tolerated. The following factors should not be used to avoid making an arrest:

- (a) Marital status of suspect and victim
- (b) Whether or not the suspect lives on the premises with the victim
- (c) Existence or lack of temporary restraining order
- (d) Potential financial consequences of arrest
- (e) Complainant's history or prior complaints
- (f) Verbal assurances that violence will cease
- (g) Complainant's emotional state
- (h) Non-visible injuries
- (i) Location of the incident (public/private)
- (j) Victim does not want to prosecute or make private person's arrest
- (k) Speculation that complainant may not follow through with the prosecution
- (l) The case may not result in a conviction

#### **320.3.1 FELONY ARRESTS**

In accordance with state law, an arrest should be made when there is probable cause to believe a felony has occurred.

#### **320.3.2 MISDEMEANOR ARRESTS**

In accordance with state law, an arrest should generally be made when there is probable cause to believe a misdemeanor has occurred.

- (a) Police officers may make an arrest without a warrant for a misdemeanor assault or battery not committed in his/her presence when it is committed upon:
  - 1. A current or former spouse.
  - 2. A current or former cohabitant (Family Code § 6209 definition).
  - 3. A fiancé or fiancée.
  - 4. A person with whom the suspect currently is having or has previously had an engagement or dating relationship.
  - 5. A person with whom the suspect has parented a child.

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6. A child of the suspect or a child of one of the above listed categories.
  7. Any person who is 65 years of age or older and who is related to the suspect by blood or legal guardianship.
- (b) Both of the following conditions must be present in order to make an arrest in this situation pursuant to Penal Code § 836(d):
1. The peace officer has probable cause to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.
  2. The peace officer makes the arrest as soon as probable cause arises to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.

#### **320.3.3 FIELD RELEASE**

A field release may not be used and a physical arrest should be made when there is a reasonable likelihood that the offense may continue or resume, or that the safety of persons or property would be imminently endangered by releasing the arrested person in the field (Penal Code § 853.6).

- (a) Any of the following may support the likelihood of a continuing offense:
1. Whether the suspect has a prior history of arrests or citations involving domestic violence.
  2. Whether the suspect is violating a Stay Away Order issued by a criminal court.
  3. Whether the suspect has previously violated, or is currently violating, a valid temporary restraining order.
  4. Whether the suspect has a prior history of other assaultive behavior (e.g., arrests or convictions for assault and battery or aggravated assaults).
  5. Statements from the victim that the suspect has a history of physical abuse toward the victim.
  6. Statements from the victim expressing fear of retaliation or further violence should the suspect be released.
- (b) Officers shall not cite and release for the following offenses (Penal Code § 853.6(a)(3)):
1. Penal Code § 243(e)(1)
  2. Penal Code § 273.5
  3. Penal Code § 273.6 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.
  5. Other offenses specified in Penal Code § 1270.1, such as serious or violent felonies.

#### **320.3.4 PRIVATE PERSON'S ARREST**

Officers will advise the victim of his/her right to make a private person's arrest when a crime has been committed outside the officer's presence which does not meet the requirements for an officer initiated arrest either because it is not a felony or a qualifying misdemeanor offense under Penal Code § 836(d). Advisements regarding private person's arrests should be held out of the presence of the suspect. Officers shall not dissuade victims from making



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a lawful private person's arrest. Officers should refer to the provisions of Policy Manual § 364 for further options regarding the disposition of private person's arrests.

#### **320.3.5 PROTECTIVE ORDER VIOLATIONS**

Absent exigent circumstances, if probable cause exists to believe an offender has violated a protective order as defined in Penal Code § 13701(b), an arrest shall be made. These court orders involve the following:

- (a) Prohibit threats, harassment or violence
- (b) Excludes a party from a dwelling
- (c) Prohibit other behaviors specified by the court

These protective orders pertain to parties labeled as petitioner and respondent who are married, formerly married, dating, formerly dated, engaged, formerly engaged, cohabiting, formerly cohabited or have had a child together.

The court orders under Penal Code § 13701(b) may be captioned as follows:

- Domestic Violence Protective Order
- Criminal Court Protective Order
- Emergency Protective Order (EPO)
- Order to Show Cause and Temporary Restraining Order (TRO)
- Order After Hearing
- Restraining Order - Juvenile
- Judgment of Dissolution and Order

Any officer determining that there is probable cause to believe that a protective order issued by a tribunal of another state is valid shall enforce such order as if issued in this state.

#### **320.3.6 TENANCY ISSUES**

- (a) Officers may request a person who is not in lawful possession of the premises to leave when:
  1. The complainant is in lawful possession of the premise (as exhibited by rent receipts, lease, deed, verification by apartment manager, etc.)
  2. The complainant has requested that the person leave the premises
- (b) The officer will stand by until the suspect removes essential belongings
- (c) If the suspect does not leave upon request, an arrest should be made under Penal Code § 602.5
- (d) If the complainant requesting removal of the suspect cannot show proof of lawful possession, the officer should refer the complainant for a Temporary Restraining Order or other appropriate civil remedy
- (e) If appropriate, a domestic violence situation involving a tenancy issue may be resolved through the proper application for an Emergency Protective Order

#### **320.4 COURT PROTECTIVE ORDERS**

Various types of restraining orders may be issued by various courts in domestic violence cases. All valid out-of-state and tribal court restraining and protective orders should be

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enforced. Penal Code § 13710 requires all law enforcement agencies to maintain complete and systematic records of all protection orders relating to domestic violence incidents, restraining orders, and proofs of service which are in effect. This section also requires that these records be used to inform law enforcement officers responding to domestic violence calls of the existence, terms, and effective dates of protection orders on file. It shall be the responsibility of the Technical Services Bureau to maintain these records.

#### **320.4.1 VERIFICATION OF RESTRAINING ORDERS**

Whenever a complainant advises of the existence of a restraining order, the officer shall immediately attempt to determine the following (Code of Civil Procedure § 527.8(i)(3)):

- (a) Whether a restraining order is on file with the Department or whether the complainant has a copy of the restraining order in his/her possession.
- (b) Whether there is a valid restraining order on file with the Department of Justice California Restraining and Protective Order System (Family Code § 6383(d)).
- (c) Whether the proof of service or prior notice exists or that the suspect was in court when the order was made.
- (d) The terms of the restraining order.

In the event the suspect is no longer at the scene, officers shall document the incident for follow up investigation.

#### **320.4.2 ENFORCEMENT PROCEDURES**

An arrest shall be made when probable cause exists to believe that the subject of a qualifying restraining order has violated the order, regardless of whether the violation occurred in the presence of the officer when evidence of proof of service of the order exists (Penal Code § 836(c)).

Proof of service may be established by any one of the following:

- (a) The existence of the order and proof of service to the subject has been verified by the officer.
- (b) The complainant produces a valid copy of the order bearing a file stamp of a court and proof of service to the subject.
- (c) The officer has verified the existence of the order and the order reflects that the subject was present in court when the order was made which removes the proof of service requirement.
- (d) The existence of the order has been verified and there is proof that an officer has previously informed the subject of its terms.

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

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#### **320.4.3 PROOF OF SERVICE NOT VERIFIED**

When the officer verifies that a restraining order exists but cannot verify proof of service or prior knowledge of the order by the suspect, the officer shall perform the following:

- (a) At the request of the complainant and upon presentation of an endorsed copy of the restraining order and a proof of service form, serve a copy of the order on the suspect. Submit the completed proof of service form to the court, regardless of whether or not the suspect is taken into custody (Code of Civil Procedure § 527.8(i)(2)).
- (b) Immediately inform the suspect of the terms of the order and place the suspect on notice that violation of the order will result in arrest.
- (c) Obtain the suspect's address.
- (d) Enforce the order but do not make an arrest for any violation of the order occurring prior to verified proof of service or before an officer's admonition of the terms of the order. If the suspect continues to violate the order after being advised of the terms, an arrest should be made (Code of Civil Procedure § 527.8(i)(4)).

If the suspect complies with the order the officer shall complete a report detailing the specific terms of the order and advisement, the name of the advising officer, and the date and time of the advisement (Penal Code § 13730(c)). The Department copy of the restraining order shall be updated to reflect the information listed above.

#### **320.4.4 WHEN ORDERS ARE NOT VERIFIABLE**

If the victim is not in possession of the restraining order and/or for any reason the officer can not verify the validity of the order the following action shall be taken:

- (a) Write a report, give the police report number to the victim.
- (b) Inform the victim of how to contact the appropriate detective or investigation unit for further action (Penal Code § 13730(c)).
- (c) Inform the victim of the right to make a private person's arrest for the appropriate violation.

In domestic violence cases where the suspect has left the scene, an investigation should be conducted to determine if a crime has been committed. In such circumstances a written report shall be completed and the victim shall be informed of the case number and the follow-up criminal procedure (Penal Code §§ 13730(c) and 13701(c)).

#### **320.4.5 EMERGENCY PROTECTIVE ORDERS**

- (a) Family Code § 6241 mandates the Superior Court to provide a judge, commissioner, or referee to hear applications and issue Emergency Protective Orders based on criteria outlined in Family Code § 6250(c). A judicial officer may issue an Emergency Protective Order whenever a law enforcement officer asserts reasonable grounds that:
  1. A person is in immediate and present danger of domestic violence based upon the person's allegation of a recent incident of abuse or threat of abuse by the person against whom the order is sought.
  2. A child is in immediate and present danger of abuse by a family or household member, based on an allegation of a recent incident of abuse or threat of abuse by the family or household member.
  3. A child is in immediate and present danger of being abducted by a parent or relative, based on a reasonable belief that a person has intent to abduct a

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- child or flee with the child from the jurisdiction or based on an allegation of a reasonable threat to abduct the child or flee with the child from the jurisdiction.
4. An elder or dependent adult is in immediate and present danger of abuse as defined in Welfare and Institutions Code § 15610.07 based on an allegation of a recent incident of abuse or threat of abuse by the person against whom the order is sought, except that no emergency protective order shall be issued based solely on an allegation of financial abuse.
- (b) Under Penal Code § 646.91, a peace officer may also obtain an Emergency Protective Order when the officer has reasonable grounds to believe that a person or the person's immediate family is in immediate and present danger of being stalked.
1. Any such Emergency Protective Order shall be reduced to writing, signed by the officer and include all of the information required by Penal Code § 646.91(c).
  2. Any officer seeking such an order shall serve the order on the restrained person if such person can be reasonably located and shall provide the person protected with a copy of the order. A copy of the order shall also be filed with the court as soon as practicable after issuance.
  3. Any officer requesting such an order shall carry copies of the order while on duty and shall use every reasonable means to enforce the order.
- (c) Emergency Protective Orders may be obtained by telephone to prohibit a suspect who resides with a complainant, regardless of their marital status or relationship from:
1. Physically or verbally contacting the victim or disturbing his/her peace.
  2. Remaining or returning to the victim's residence, regardless of who holds legal title to, or leases the residence.
  3. Continuing a specified behavior as described in the order.
- (d) Officers investigating the scene of current or recent situations of domestic violence should remain cognizant of the potential for continued and escalated violence. An Emergency Protective Order should be sought if there is reason to believe, based on factual evidence such as a recent history of violence that the victim may still be in danger.
- (e) Officers should consider requesting an EPO if any of the following conditions exist:
1. The victim requests an EPO.
  2. The investigating officer has grounds to believe that there is an immediate danger of continuing violence against the victim.
  3. The investigating officer or victim believes that the suspect may be able to make bail and the potential for further violence exists.

#### **320.4.6 COURT ORDERS**

Stay-away orders are issued in criminal cases when the probability of victim intimidation exists. Violation of a stay-away order is a misdemeanor under Penal Code § 166(c)(1). Witness intimidation is also a violation of Penal Code § 136.1 and potentially a violation of Penal Code § 422. Examples of witness intimidation include attempting to prevent or dissuade a victim from attending or giving testimony at any proceeding, or using force or expressing or implying a threat of force or violence related to the court proceeding.

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#### **320.5 EVIDENCE**

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

##### **320.5.1 RECORDING INJURIES AND STATEMENTS**

All visible injuries should be photographed regardless of severity, and all victims shall receive proper medical care prior to being photographed, if needed or desired. If feasible, officers may make a video recording of the injuries and victim statements.

Victims whose injuries are not visible at the time of the incident should be advised to contact the Detective Bureau in the event the injuries later become visible. An investigator may be assigned to ensure the injuries are photographed during the course of preparing the case for court.

#### **320.6 VICTIM ASSISTANCE**

During the course of investigating and reporting domestic violence cases, an officer may assist a victim in many ways. Some suggested methods of assistance are:

- (a) Assist in obtaining appropriate medical attention if a complainant claims injury, whether visible or not.
- (b) Assist in arranging to transport the victim to an alternate shelter if the victim expresses a concern for their safety, or the officer determines a need exists.
- (c) Stand by for a reasonable amount of time when a complainant requests police assistance while removing essential items of personal property.
- (d) Explain legal options available to the victim including the private person's arrest process, temporary restraining and stay-away orders, and in cases of arrest, the follow-up procedures and ensuing criminal proceedings.
- (e) Advise the victim of available community resources and the State Victim Assistance Program. See § 320.6.1 of the Policy Manual;

##### **320.6.1 VICTIM INFORMATION AND NOTIFICATION EVERYDAY PROGRAM**

When appropriate, officers should advise the victim of the availability of the Victim Information and Notification Everyday (VINE) Program. VINE is a free, computer-based telephone service that allows victims to check on an offender's custody status and register to receive automatic notification when an inmate is released from County Jail. The contact phone number for VINE is printed on the Fullerton Police Department Fullerton Domestic Violence Resource Card.

##### **320.6.2 WRITTEN NOTICE TO VICTIMS**

Penal Code § 13701 requires that victims of domestic violence be furnished written notice including the following information:

- (a) A statement informing the victim that despite official restraint of the person alleged to have committed domestic violence, the restrained person may be released at any time
- (b) A statement that provides information about a shelter they may contact in the area
- (c) A statement that provides information about other community services they may contact in the area

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- (d) A statement informing the victim of domestic violence that he or she can ask the District Attorney to file a criminal complaint
- (e) A statement that "For further information about the California Victim's Compensation Program, you may contact 1-800-777-9229."
- (f) A statement informing the victim of the right to go to the Superior Court and file a petition requesting any of the following orders for relief:
  - 1. An order restraining the attacker from abusing the victim and other family members
  - 2. An order directing the attacker to leave the household
  - 3. An order preventing the attacker from entering the residence, school, business, or place of employment of the victim
  - 4. An order awarding the victim or the other parent custody of or visitation with a minor child or children
  - 5. An order restraining the attacker from molesting or interfering with minor children in the custody of the victim
  - 6. An order directing the party not granted custody to pay support of minor children, if that party has a legal obligation to do so
  - 7. An order directing the defendant to make specified debt payments coming due while the order is in effect
  - 8. An order directing that either or both parties participate in counseling
- (g) A statement informing the victim of the right to file a civil suit for losses suffered as a result of the abuse. This includes medical expenses, loss of earnings, and other expenses for injuries sustained and damage to property, and any other related expenses incurred by the victim or any agency that shelters the victim
- (h) In the case of an alleged violation of Penal Code §§ 243(e), 261, 261.5, 262, 273.5, 286, 288a, or 289, a Fullerton Domestic Violence Resource Card which shall include, but is not limited to, the following information:
  - 1. The names and locations of rape victim counseling centers within the county, including those centers specified in Penal Code § 13837, and their 24-hour counseling service telephone numbers.
  - 2. A simple statement on the proper procedures for a victim to follow after a sexual assault.
  - 3. A statement that sexual assault by a person who is known to the victim, including sexual assault by a person who is the spouse of the victim, is a crime.
  - 4. A statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime.
- (i) The card should also provide information relating to the rights and duties of tenants and landlords regarding lock changes, evictions and related matters that may assist victims with housing and safety concerns (Code of Civil Procedure § 1161.3, Civil Code § 1941.5 and Civil Code § 1941.6).

### **320.6.3 DOMESTIC VIOLENCE SUPPORT**

Victims of domestic violence or abuse have the right to have a domestic violence counselor (as defined in Evidence Code § 1037.1) and a support person of the victim's choosing present at any interview by law enforcement authorities (Penal Code § 679.05)

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The investigating officer must advise the victim of his/her right to have an advocate and support person present at any subsequent interview(s), including additional interviews by the reporting and/or detectives handling the case. The victim should be advised that any advocate working for the agencies listed on the Domestic Violence resource card would qualify.

- (a) For the purposes of this section, an initial investigation by law enforcement to determine whether a crime has been committed and to determine the identity of the suspect(s) shall not constitute a law enforcement interview.
- (b) The support person may be excluded from an interview if the law enforcement authority or the District Attorney determines the presence of that person would be detrimental to the purpose of the interview.
- (c) The investigating officer should articulate in the report that the victim was advised of their right to a counselor and/or support person.

### **320.7 REPORTING OF DOMESTIC VIOLENCE**

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 required by Penal Code § 13730(s).

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 pamphlet provided to the victim. If the case number is not immediately available, an explanation should be given about how the victim can obtain the information at a later time.

#### **320.7.1 RECORD-KEEPING RESPONSIBILITIES**

Penal Code § 13730 also requires that all law enforcement agencies maintain records on the number of domestic violence related calls reported to their agency and to include whether or not weapons were used in the incident. This information is to be reported to the Attorney General monthly. It shall be the responsibility of the Technical Services Manager to maintain and report this information as required.

#### **320.8 FIREARMS**

Officers shall take into temporary custody any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual search or other lawful search in a domestic violence incident and process it for safekeeping as authorized in Penal Code § 12028.5. In no event shall such a firearm or weapon be returned within less than 48 hours. If necessary, officers may also obtain a search warrant for firearms or other deadly weapons that are subject to seizure under Penal Code § 12028.5 (Penal Code § 1524(a)).

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 indicate the location where the weapon may be recovered along with any applicable time limit for recovery (Penal Code § 12028.7).

No person who is the subject of an Emergency Protective Order issued pursuant to Penal Code § 646.91 may own, possess, receive, purchase or attempt to purchase a firearm while such order is in effect.

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#### **320.8.1 RETURN OF FIREARMS**

- (a) If, within five days after the seizure, a firearm or other deadly weapon is not retained for use as evidence related to criminal charges brought as a result of the domestic violence incident and the officer has no reason to believe that such firearm or weapon would further endanger the victim or person reporting the domestic violence, the Department shall notify the lawful owner or other person who was in lawful possession of the firearm or weapon of its availability (Penal Code § 12028.5(b)).
- (b) If, however, any officer has reasonable cause to believe that a firearm or other deadly weapon seized in a domestic violence incident would likely result in further danger to the victim or person reporting such incident or that further investigation of such firearm or weapon is required through the Department of Justice or other sources, the Department shall within five days of the seizure, notify the owner or other person who was in lawful possession of the firearm or weapon that such firearm or weapon will be retained for up to 60 days of the seizure.
- (c) If, after 45 days, the Department has been unable to clear the firearm or other deadly weapon for release, the Department shall commence the process of preparing a petition to the Superior Court to determine if the firearm or other weapon should be returned. Such petition shall be filed within 60 days of the initial seizure or upon timely application to the court for an extension within no more than 90 days (Penal Code § 12028.5(f)).
- (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 § 12021.3(e).
- (e) 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 § 12021.3(g)).

#### **320.9 DISPATCHER'S RESPONSIBILITIES**

This department considers calls of reported, threatened, imminent, or ongoing domestic violence, and the violation of any protection order, including orders issued pursuant to Penal Code § 136.2, and restraining orders of extreme importance and shall be ranked among the highest priorities. Dispatchers are not required to verify the validity of the protective order before responding to the request for assistance. All calls of domestic violence should be dispatched as soon as practical.

##### **320.9.1 PUBLIC ACCESS TO POLICY**

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



## Search & 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 Fullerton Police Department personnel to consider when dealing with search and seizure issues.

### 322.2 POLICY

It is the policy of the Fullerton 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 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.

#### **322.6 MISTAKEN ENTRY**

Mistaken entry by police officers into any location where an individual would have a reasonable expectation of privacy is a serious and dangerous matter. During an entry that would be authorized by Statute or Case Law (i.e. valid search warrant, exigent circumstances or valid consent) every effort should be made to ensure that officers are entering the correct location.

##### **322.6.1 PROTOCOL FOR LOCATION VERIFICATION**

In order to verify, with reasonable certainty, that the entry is at the correct location; officers may use a variety of available systems, actions and resources. Location verifications may include, but are not limited to: reliable electronic/web based applications, visual surveillance, site visits, address posting on the location and/or curb, FPD CAD system, engineering documents, city maps and street signs.

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#### **322.6.2 MISTAKEN ENTRY NOTIFICATIONS**

In the event that a mistaken entry into a location takes place by Fullerton Police Officers, the following notification and actions shall take place:

- The involved officers shall report the matter immediately to an on-duty Watch Commander.
- The on-duty Watch Commander shall immediately notify the appropriate Division Commander of the involved officers.
- The Division Commander will immediately notify the Chief of Police
- The Division Commander will ensure that a police report is promptly completed documenting the incident.
- The Division Commander will initiate an Administrative Investigation into the facts surrounding the entry.
- As soon as practical, a Command Staff Officer will be responsible to contact the relevant occupants at the location where the entry took place.

## Temporary Custody of Juveniles

### 324.1 PURPOSE AND SCOPE

This policy provides guidelines and requirements for the detention and disposition of juveniles taken into temporary custody by members of the Fullerton Police Department.

### 324.2 AUTHORITY TO DETAIN

Legal authority for taking custody of juvenile offenders is found in Welfare and Institutions Code § 625.

#### 324.2.1 CONSTITUTIONAL RIGHTS ADVISEMENT

In any case where a juvenile is taken into temporary custody, the juvenile should be promptly advised of his/her constitutional rights to ensure the admissibility of any spontaneous statements, whether or not questioning is intended (Welfare & Institutions Code § 625).

#### 324.2.2 CHILDREN UNDER THE AGE OF 14

Whenever a child under the age of 14 is arrested, the arresting 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).

### 324.3 TEMPORARY CUSTODY

No juvenile may be held in temporary custody at the Fullerton Police Department without authorization of the arresting officer's supervisor or the Watch Commander. An individual taken into custody for Welfare and Institutions Code § 300 or § 601 shall be processed as soon as practical. Juveniles detained under Welfare and Institutions Code § 602 may not be held at this facility for more than six hours from the time of arrival at the Fullerton Police Department. When a juvenile is taken into custody, the following steps shall be taken by the arresting officer or the detective assigned to the case:

- (a) Once the detained juvenile has been placed in secure or non-secure custody, complete the Juvenile Detention Log located in the Watch Commander's office
- (b) Take immediate steps to notify the juvenile's parent, guardian, or a responsible relative that such juvenile is in custody and provide the location where the juvenile is being held and the intended disposition (Welfare and Institutions Code § 627)
- (c) Submit a completed report to the Watch Commander for approval

Status offenders and abused or neglected children (juveniles falling within provisions of Welfare and Institutions Code §§ 300 and 601) may not be detained in police jails or lockups. They may be taken to welfare workers but may not be held in a secured environment or come into contact with adults in custody in the station.

#### 324.3.1 TEMPORARY CUSTODY REQUIREMENTS

All juveniles held in temporary custody shall have the following made available to them:

- (a) Access to toilets and washing facilities

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- (b) One snack upon request during term of temporary custody if the juvenile has not eaten within the past four hours or is otherwise in need of nourishment. The snack shall be provided by the arresting officer, jailer or as directed by a supervisor
- (c) Access to drinking water
- (d) Privacy during visits with family, guardian, or lawyer
- (e) Immediately after being taken to a place of temporary confinement, and except where physically impossible no later than one hour after being taken into custody, the detaining officer shall advise and provide the juvenile an opportunity to make at least three telephone calls. The telephone calls must be made to a parent, guardian, responsible relative, employer, or an attorney. (Welfare & Institutions Code § 627 and Penal Code § 851.5)

#### **324.3.2 NON-CONTACT REQUIREMENTS**

Employees shall not allow physical or sustained sight or sound contact between detained juveniles and incarcerated adults. Sight contact is clear visual contact between adult inmates and juveniles within close proximity to each other; sound contact is direct oral communication between adult inmates and juvenile offenders. This applies to both non-secure and secure detentions (Welfare & Institutions Code § 208 and 15 CCR § 1006).

In situations where brief or accidental contact may occur, such as booking or movement between facilities, employees trained in the supervision of inmates must be present. These trained employees must maintain a constant, side-by-side presence with the minor or the adult to prevent sustained contact (15 CCR § 1144).

#### **324.4 TYPES OF CUSTODY**

The following provisions apply to types of custody, and detentions of juveniles brought to the Fullerton Police Department.

##### **324.4.1 NON-SECURE CUSTODY**

All juveniles not meeting the criteria to be placed in a locked detention room, or any juvenile under the age of 14-years taken into custody for a criminal violation, regardless of the seriousness of the offense, may be temporarily detained in the police facility however the custody must be non-secure. Non-secure custody means juveniles shall be placed in an unlocked room or open area. Juveniles may be handcuffed, but not to a stationary or secure object. Juveniles shall receive constant personal visual supervision by law enforcement personnel. Monitoring a juvenile using audio, video or other electronic devices does not replace constant personal visual supervision.

##### **324.4.2 SECURE CUSTODY**

A juvenile may be held in secure detention in the jail if the juvenile is 14-years of age or older and, if in the reasonable belief of the peace officer, the juvenile presents a serious security risk of harm to self or others, as long as all other conditions of secure detention set forth below are met. Any juvenile in temporary custody who is less than 14-years of age, or who does not, in the reasonable belief of the peace officer, present a serious security risk of harm to self or others, shall not be placed in secure detention, but may be kept in non-secure custody in the facility as long as all other conditions of non-secure custody are met (Welfare and Institutions Code § 602, Title 15 California Code of Regulations § 1145).

- (a) In making the determination whether the juvenile presents a serious security risk of harm to self or others, the officer may take into account the following factors:

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1. Age, maturity, and delinquent history of the juvenile.
  2. Severity of the offense(s) for which the juvenile was taken into custody.
  3. Juvenile's behavior, including the degree to which the minor appears to be cooperative or non-cooperative.
  4. The availability of staff to provide adequate supervision or protection of the juvenile.
  5. The age, type, and number of other individuals who are detained in the facility.
- (b) A juvenile may be locked in a room or secured in a detention room subject to the following conditions:
1. Juvenile is 14-years of age or older.
  2. Juvenile is taken into custody on the basis of having committed a criminal law violation as defined in Welfare and Institutions Code § 602.
  3. Detention at this facility does not exceed six hours from the time of arrival at the police station, when both secure and non-secure time is combined.
  4. Detention is for the purpose of giving the officer time to investigate the case, facilitate the release of the juvenile to parents, or arrange transfer to Juvenile Hall.
  5. The officer apprehending the juvenile has reasonable belief that the juvenile presents a "serious security risk of harm to self or others." Factors to consider include:
    - (a) Age, maturity, and delinquent history of juvenile.
    - (b) Severity of offense for which taken into custody.
    - (c) Juvenile's behavior.
    - (d) Availability of staff to provide adequate supervision or protection of the juvenile.
    - (e) Age, type, and number of other individuals detained at the facility.

#### **324.4.3 SECURE DETENTION OF JUVENILES**

While in secure detention, minors may be locked in a room or other secure enclosure, secured to a cuffing rail, or otherwise reasonably restrained as necessary to prevent escape and protect the juvenile or and others from harm.

- (a) Minors held in secure detention outside of a locked enclosure shall not be secured to a stationary object for more than 30 minutes unless no other locked enclosure is available. If a juvenile is secured, the following conditions must be met:
1. A Department employee must be present at all times to ensure the juvenile's safety while secured to a stationary object.
  2. Juveniles who are secured to a stationary object are moved to a detention room as soon as one becomes available.
  3. Juveniles secured to a stationary object for longer than 30 minutes, and every 30 minutes thereafter, shall be approved by the Sergeant or the designated supervisor and the reason for continued secure detention shall be documented.
- (b) In the event a juvenile is held inside a locked enclosure, the juvenile shall receive adequate supervision which, at a minimum, includes:
1. Constant auditory access to staff by the juvenile;

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2.     Unscheduled personal visual supervision of the juvenile by department staff, no less than every 30 minutes. These jail checks shall be documented.
- (c)    Males and females shall not be placed in the same locked room unless under direct visual supervision.

#### **324.4.4    JUVENILE DETENTION ROOMS**

The Fullerton Police Department has provided juvenile detention rooms outside of the adult jail facility. These rooms are designed for the temporary detention of juveniles meeting the criteria of secure custody. Officers or detectives placing juveniles in secure detention rooms shall comply with the following:

- (a)    It is the officer's responsibility to notify the Watch Commander, desk personnel, and/or detective personnel that a detention has begun. The juvenile must be told the reason for incarceration, the length of time secure detention will last and that it may not exceed a total of six hours.
- (b)    Any juvenile placed in a locked detention room shall be separated according to sex and the severity of the crime (felony or misdemeanor) unless emergency circumstances will not allow for this type of segregation. When such separation is not possible, the Watch Commander shall be consulted for directions on how to proceed with the detention of the multiple juveniles involved.
- (c)    A written record will be maintained on a detention log located in the Watch Commander's office. This log will include the charges for which the juvenile is being detained, the circumstances that warrant a secured detention, the time the detention began, and the time it ended. There will also be a place for the Watch Commander to initial the log approving the detention to occur and to initial the log when the juvenile is released.
- (d)    It is the responsibility of a detective (when available) to monitor the custody of the juvenile and to prepare the necessary paperwork to process the juvenile for release to a parent, guardian, or the appropriate juvenile custody facility. When a detective is not available, the Watch Commander, or his/her designee, shall be responsible for monitoring the detention of the juvenile, and ensuring that appropriate paperwork is prepared to process the juvenile out of the custody of this department. The Watch Commander shall be notified in all cases when a juvenile is detained at this department, and when applicable, shall be provided the name of the detective taking responsibility for the detention and processing of the juvenile
- (e)    A thorough inspection of the detention room shall be conducted before placing a juvenile into the room. A second inspection shall be conducted after removing the juvenile. Any damage noted to the room shall be photographed and documented in the crime report

#### **324.4.5    JUVENILE'S PERSONAL PROPERTY**

The officer placing a juvenile into a detention room must make a thorough search of the juvenile's property. This will ensure all items likely to cause injury to the juvenile or the facility are confiscated and placed in a property bag. The property shall be inventoried in the juvenile's presence and sealed into the bag. The property will be maintained by the responsible detective or the desk personnel or locked in a juvenile property locker until the juvenile is released from the custody of the Fullerton Police Department.

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#### **324.4.6 MONITORING OF JUVENILES**

The juvenile shall constantly be monitored by the audio/video system during the entire detention. An in-person visual inspection shall be done to ensure the welfare of the juvenile and shall be conducted at least once each half-hour, on an unscheduled basis, until the juvenile is released. This inspection shall not be replaced by video monitoring. This inspection shall be conducted by a designee of the Watch Commander, and the visual inspection shall be logged on the Inspection Log in the Watch Commander's office.

More frequent visual inspections should be made as circumstances dictate as in the case of an injured or ill juvenile being detained, or if specific circumstances exist such as a disciplinary problem or suicide risk. In such instances the Watch Commander shall be fully informed about the special circumstances in order to evaluate continued detention of such a juvenile. Juvenile Security Report Logs and Confinements of Juvenile Logs shall be turned into the Technical Services Manager or his/her designee at the end of each month.

#### **324.4.7 MANDATED JUVENILE PROVISIONS**

While a juvenile is being detained in the detention room, he/she shall be provided with the following provisions:

- (a) Reasonable access to toilets and washing facilities
- (b) Food, if the 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. All food given to a juvenile in custody shall be provided from the jail food supply
- (c) Reasonable access to drinking water
- (d) Privacy during family, guardian, and/or lawyer visits
- (e) Blankets and clothing necessary to ensure the comfort of the juvenile (clothing shall be provided by the jail if the juvenile's clothing is taken as evidence or is otherwise unsuitable or inadequate for the continued wear while in custody)

#### **324.4.8 FORMAL BOOKING**

No juvenile shall be formally booked (Welfare and Institutions Code § 602 only) without the authorization of the arresting officer's supervisor, or in his or 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 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

#### **324.4.9 DISPOSITIONS**

- (a) Any juvenile not transferred to a juvenile facility shall be released to one of the following:
  - 1. Parent or legal guardian



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2. An adult member of his/her immediate family
  3. An adult person specified by the parent/guardian
  4. An adult person willing to accept responsibility, when the juvenile's parents are unavailable as approved by the Watch Commander
- (b) If the six hour time limit has expired, the juvenile should be transported to the juvenile hall to accept custody
- (c) After an officer has taken a juvenile into temporary custody for a violation of law, the following dispositions are authorized:
1. The arresting officer may counsel or admonish the juvenile and recommend no further action be taken.
  2. If the arresting officer or the Watch Commander believes that further action is needed, the juvenile will be released to a responsible person as listed above, and such juvenile will be advised that follow-up action will be taken by a detective. The detective assigned to the case will then determine the best course of action, such as diversion or referral to court. The detective will contact the parents and advise them of the course of action.
  3. The arresting officer may complete an Application for Petition form on behalf of the juvenile and forward it to the Detective division for processing.
  4. The juvenile may be transferred to Juvenile Hall with authorization of the appropriate supervisor or the Watch Commander when the violation falls within the provisions of Welfare and Institutions Code § 602.
- (d) If a juvenile is to be transported to Juvenile Hall, the following forms shall accompany the juvenile:
1. Application for Petition.
  2. Three copies of the applicable reports for each juvenile transported. In certain cases Juvenile Hall may accept custody of the juvenile based on the petition and the agreement that facsimile copies will be forwarded as soon as completed.
  3. Any personal property taken from the juvenile at the time of detention

#### **324.5 JUVENILE CONTACTS AT SCHOOL FACILITIES**

Absent exigent circumstances, officers should make every reasonable effort to notify responsible school officials prior to contacting a student on campus while school is in session.

- (a) Reasonable efforts should be taken to coordinate with school officials to minimize disruption of school functions and maintain a low profile police presence when contacting a student.
- (b) Whenever circumstances warrant the temporary detention or formal interview of a juvenile student on campus, the officer should:
1. When practical and when it would not unreasonably interfere with the investigation, take reasonable steps to notify a parent, guardian, or responsible adult, including those phone numbers listed on any contact card on file with the school or provided by the student. All efforts to make contact with parents and/or reasons contact was not attempted should be documented.
  2. If efforts to contact a parent, guardian or responsible adult are unsuccessful or not attempted, a formal interview with the juvenile may proceed without them.

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Upon the request of the juvenile, a school official or lawyer may be present during the interview in lieu of a parent.

3. If contacted, the selected parent, other responsible adult or school official may be permitted to be present during any interview.
  - (a) An adult suspected of child abuse or other criminal activity involving the juvenile, or an adult, who in the opinion of the officer appears to be under the influence or otherwise unable or incompetent to exercise parental rights on behalf of the juvenile, will not be permitted to be present.
  - (b) If the officer reasonably believes that exigent circumstances exist which would materially interfere with the officer's ability to immediately interview the juvenile, the interview may proceed without the parent or other responsible adult. In such circumstances, the exigent circumstances should be set forth in a related report.
- (c) Any juvenile student 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 school staff to be present. The purpose of the staff member's presence is to provide comfort and support and such 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).

Absent exigent circumstances or authority of a court order, officers should not involuntarily detain a juvenile 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. In all such cases officers should adhere to guidelines and requirements set forth in Policy 330 Child Abuse Reporting.

#### **324.6 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. Officers of this department shall not divulge any information regarding juveniles in situations where they are uncertain of the legal authority to do so.

##### **324.6.1 RELEASE OF INFORMATION BY SUPERIOR COURT ORDER**

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 Policy Manual. Such releases are authorized by Welfare and Institutions Code § 827.

##### **324.6.2 RELEASE OF INFORMATION TO OTHER AGENCIES**

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

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#### **324.7 ADDITIONAL CONSIDERATIONS PERTAINING TO JUVENILES**

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

When emergency medical attention is required for a juvenile who is either in secure or non-secure custody, the paramedics will be called. The Watch Commander shall be notified of the need for medical attention for the juvenile.

In cases where injury or illness is life threatening and where lost minutes may be the deciding factor, the arresting officer or the discovering officer should administer first aid prior to the arrival of the paramedics. The juvenile will then be transported to a medical facility.

In the event of a serious illness, suicide attempt, injury or death of a juvenile, the following persons shall be notified as soon as possible:

- (a) The Juvenile Court
- (b) The parent, guardian, or person standing in loco parentis, of the juvenile

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

The arresting officer 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 himself/herself, or any unusual behavior which may indicate the juvenile may harm himself/herself while in custody in either secure or non-secure detention.

The detaining or transporting officer is responsible to notify the Watch Commander if he/she believes the juvenile may be a suicide risk. The Watch Commander will then arrange to contact a mental health team for evaluation, or to contact Juvenile Hall and arrange for the transfer of the juvenile, providing the juvenile meets the intake criteria. The juvenile shall be under constant personal supervision until the transfer is completed.

##### **324.7.3 USE OF RESTRAINT DEVICES**

Policy Manual § 306 refers to the only authorized restraint device. It is the policy of this department that restraints will not be used for inmates retained in custody. This policy also applies to juveniles held in temporary custody. The use of a restraint is an extreme measure and only for a temporary measure pending transportation to another facility or until other custodial arrangements can be made. The use of restraints shall only be used when the juvenile:

- (a) Displays bizarre behavior that results in the destruction of property or shows intent to cause physical harm to self or others
- (b) Is a serious and immediate danger to himself/herself or others
- (c) Otherwise falls under the provisions of Welfare and Institutions Code § 5150

Restraint devices include devices which immobilize a juvenile's extremities and/or prevent the juvenile from being ambulatory. 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.

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Direct visual observation shall be conducted at least twice every 30 minutes to ensure that the restraints are properly employed, and to ensure the safety and well-being of the juvenile.

The Watch Commander shall arrange to have the juvenile evaluated by a mental health team as soon as possible if there is evidence of mental impairment. When mental impairment is suspected, constant personal visual supervision shall be maintained in order to ensure that restraints are properly employed and to ensure the safety and well being of the juvenile. Such supervision shall be documented in the police report.

Juveniles who have been placed in restraint devices shall be isolated to protect them from abuse. Restraints shall not be used as a punishment, or as a substitute for treatment.

#### **324.7.4 DISCIPLINE OF JUVENILES**

Police personnel are prohibited from administering discipline to any juvenile.

#### **324.7.5 DEATH OF A JUVENILE WHILE DETAINED**

The District Attorney's Office and the Sheriff-Coroner's Office will conduct the investigation of the circumstances surrounding the death of any juvenile being detained at this department. The Support Services Division Commander or his/her designee will conduct an administrative review of the incident.

In any case in which a juvenile dies while detained at the Fullerton Police Department, the following shall apply:

- (a) The Chief of Police or his or her designee shall provide to the California Department of Corrections and Rehabilitation a copy of the report submitted to the Attorney General under Government Code § 12525. A copy of the report shall be submitted to the Department of Corrections and Rehabilitation within ten calendar days after the death.
- (b) Upon receipt of a report of death of a juvenile from the Chief of Police or his or her designee, the Department of Corrections and Rehabilitation may within 30 calendar days inspect and evaluate the juvenile facility, jail, lockup or court holding facility pursuant to the provisions of Article 4, Title 15 California Code of Regulations § 1341. Any inquiry made by the Department of Corrections and Rehabilitation shall be limited to the standards and requirements set forth in these regulations.
- (c) A medical and operational review of every in-custody death of a juvenile shall be conducted. The review team shall include the following:
  1. Chief of Police or his or her designee
  2. The health administrator
  3. The responsible physician and other health care and supervision staff who are relevant to the incident

#### **324.7.6 CURFEW VIOLATIONS**

Juveniles detained for curfew violations may be released in the field or brought to the station but should only be released to their parent, legal guardian, or responsible adult.

#### **324.7.7 PROTECTIVE CUSTODY**

Pursuant to Welfare and Institutions Code § 300 et seq., a child may be taken into protective custody if he/she is the victim of suspected child abuse. Before taking any minor into protective custody, the officer should make reasonable attempts to contact the appropriate

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child welfare authorities to ascertain any applicable history or current information concerning the minor.

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.

#### **324.8 INTOXICATED AND SUBSTANCE ABUSING MINORS**

Juveniles who are arrested while intoxicated may be at risk for serious medical consequences, including death. Examples include acute alcohol poisoning, seizures and cardiac complications of cocaine, markedly disordered behavior related to amphetamines or hallucinogenic drugs, and others.

A medical clearance shall be obtained prior to detention of juveniles at the Fullerton Police Department when the juvenile displays outward signs of intoxication or is known or suspected to have ingested any substance that could result in a medical emergency (Title 15, California Code of Regulations § 1431). In addition to displaying outward signs of intoxication, the following circumstances require a medical evaluation:

- Known history of ingestion or sequestration of a balloon containing drugs in a body cavity
- Minor is known or suspected to have ingested any substance that could result in a medical emergency
- A juvenile who is intoxicated to the level of being unable to care for him or herself
- An intoxicated juvenile whose symptoms of intoxication are not showing signs of improvement

Juveniles with lower levels of alcohol in their system may not need to be evaluated. An example is a juvenile who has ingested one or two beers would not normally meet this criterion.

- (a) A juvenile detained and brought to the Fullerton Police Department who displays symptoms of intoxication as a result of alcohol or drugs shall be handled as follows:
  1. Observation of juvenile's breathing to determine that breathing is regular. Breathing should not be erratic or indicate that the juvenile is having difficulty breathing.
  2. Observation of the juvenile to ensure that there has not been any vomiting while sleeping and ensuring that intoxicated juveniles remain on their sides rather than their backs to prevent the aspiration of stomach contents.
  3. An arousal attempt to ensure that the juvenile will respond to verbal or pressure stimulation (shaking to awaken). This is the most important monitoring procedure.
- (b) Personal observation shall be conducted on a frequent basis while the juvenile is in the custody of the Fullerton Police Department, and no less than once every 15 minutes until such time as the symptoms are no longer present. For juveniles held in secure detention inside a locked enclosure, officers will ensure constant audio monitoring is maintained in addition to conducting the in person visual checks. All other forms of detention require the officer to maintain constant visual supervision of the juvenile.

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1. The 15 minute checks of the juvenile shall be documented on the Juvenile Detention Log in the Watch Commander's office.
- (c) Any juvenile who displays symptoms suggestive of a deepening comatose state (increasing difficulty or inability to arouse, irregular breathing patterns, or convulsions), shall be considered an emergency. Paramedics should be called and the juvenile taken to a medical treatment facility.
  - (d) Juveniles undergoing acute withdrawal reactions shall immediately be transported to a medical facility for examination by a physician.
  - (e) A medical clearance is required before the juvenile is transported to Juvenile Hall if it is known that the juvenile ingested any intoxicating substances or appears to be under the severe influence of alcohol.

Once the juvenile no longer displays symptoms of intoxication, the requirements in section (a) above will no longer be required. The juvenile will still be monitored on a 30-minute basis as outlined in this policy. The juvenile will continue to be monitored as required for secure or non-secure detentions.

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## Elder Abuse

### 326.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of this department with direction and understanding of their role in the prevention, detection, and intervention in incidents of elder abuse. It is the policy of the Fullerton Police Department to treat reports of violence against elderly persons as high priority criminal activity that is to be fully investigated regardless of the relationship between the victim and the suspect(s).

### 326.2 DEFINITIONS

For purposes of this policy, the following definitions are provided (Welfare and Institutions Code § 15610 et seq. and Penal Code § 368).

**Dependent Adult** - Is any person residing in this state, between the ages of 18 and 64-years, who has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or 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. Dependent Adult includes any person between the ages of 18 and 64-years who is admitted as an inpatient to a 24-hour health facility, as defined in Health and Safety Code §§ 1250, 1250.2, and 1250.3.

**Elder** - Is any person residing in this state, 65-years of age or older.

**Financial Abuse** - Is a situation in which any person who has the care or custody of, or who stands in a position of trust to, an elder or a dependent adult, takes, secretes, or appropriates their money or property to any use or purposes not in the due and lawful execution of his or her trust.

**Abuse of an Elder or a Dependent Adult** - Is physical abuse, neglect, financial abuse, abandonment, isolation or other treatment with resulting physical harm, pain, mental suffering, or the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering.

**Adult Protective Services Agency** - Is a county welfare department, except persons who do not work directly with elders or dependent adults as part of their official duties, including members of support staff and maintenance staff.

**Neglect** - Is the negligent failure of any person having the care or custody of an elder or a dependent adult to exercise that degree of care which a reasonable person in a like position would exercise. Neglect includes, but is not limited to, all of the following:

- (a) Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter.
- (b) Failure to provide medical care for physical and mental health needs. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone instead of medical treatment.

### 326.3 MANDATORY REPORTING REQUIREMENTS

Members of the Fullerton Police Department are mandated reporters.

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Employees who observe, have knowledge of, or are told by an elder or dependant adult about any form of abuse (physical abuse, abandonment, abduction, isolation, financial abuse, neglect) shall make a report and notify the appropriate social services representative as soon as practicable (see Welfare & Institutions Code § 15630 for reporting details). Failure to make a report within two working days is a misdemeanor (Welfare and Institution Code § 15630(h)).

The Detective Bureau Supervisor is responsible to ensure that cases of suspected elder abuse are forwarded to the District Attorney's Office and any other regulatory agency that may be applicable based upon where the abuse took place (care facility, hospital) per Welfare and Institution Code § 15630(b).

#### **326.3.1 TECHNICAL SERVICES BUREAU RESPONSIBILITY**

The Technical Services 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 elder and dependent 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 a suspected elder abuse. Entry should be immediate when it appears objectively reasonable 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.

##### **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, injuries for example, 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. Officers may arrest a person without a warrant when probable cause exists to believe that the person has committed an assault or battery, whether or not the assault or battery has in fact been committed, upon a victim 65 years of age or older to whom the suspect is related by blood or legal guardianship, provided the arrest is made at the time probable cause arises (Penal Code § 836). If an arrest is not otherwise required by law, officers should consider the



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consequences that the immediate arrest of a sole supporting family caretaker might have on the victim. The decision to arrest should be based on the best interests and caretaking needs of the elderly victim. The present and future safety of the victim is of utmost importance.

#### **326.4.3 SUPPORT PERSONNEL**

The following person(s) should be considered 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

#### **326.4.4 EMERGENCY PROTECTIVE ORDERS**

In any situation which an officer reasonably believes that an elder or dependant 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 ELDER ABUSE REPORTING**

Every allegation of elder abuse shall be documented. 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 of cases of elder/dependent abuse is confidential and will only be released as per Policy Manual § 810.

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

## **Discriminatory Harassment**

### **328.1 PURPOSE AND SCOPE**

To prevent Department members from being subjected to discrimination or sexual harassment and to ensure full equal employment opportunity, in conformance with Title VII of the Civil Rights Act of 1964, the guidelines issued by the Equal Employment Opportunity Commission, the California Fair Employment and Housing Act and the guidelines issued by the California Fair Employment and Housing Commission.

### **328.2 POLICY**

The Fullerton Police Department is committed to creating and maintaining a work environment that is free of all forms of discrimination and intimidation, including sexual harassment. The Department will take preventative, corrective and disciplinary action for any behavior that violates this policy or the rights and privileges it is designed to protect.

### **328.3 DEFINITIONS**

#### **328.3.1 DISCRIMINATION**

Discrimination is any act or omission of an act which would create a hostile work environment, or exclude any person from employment or promotional opportunities because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition, age, marital status or denial of family care or pregnancy disability leave.

Discrimination includes, but is not limited to, derogatory comments, slurs or jokes, pictures, cartoons or posters, and actions which result in an employee being offended or insulted because of a protected classification status enumerated above.

#### **328.3.2 SEXUAL HARASSMENT**

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 an employee's employment.
- (b) Submission to or rejection of such conduct by an employee is used as the basis for employment decisions affecting the employee.
- (c) Conduct that has the purpose or effect of interfering with an employee's work performance or creating an intimidating, hostile, or offensive work environment.

#### **328.3.3 ADDITIONAL CONSIDERATIONS**

Discrimination and harassment does not include actions that are in accordance with established rules, principles or standards including the following:

- (a) Acts or omission of acts based solely upon bona fide occupational qualifications under Equal Employment Opportunity Commission and California Fair Employment and Housing Commission Guidelines.
- (b) Bona fide requests or demands by a supervisor that the employee improve his/her work quality or output, that the employee report to the job site on time, that the

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employee comply with City or departmental 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 employees 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.

All employees shall promptly report any observed or known violations of this policy to a supervisor. Employee(s) not comfortable with reporting violations of this policy to their immediate supervisor may bypass the chain of command and report it to a higher ranking officer. Complaints may also be filed with the City's Affirmative Action Officer.

Supervisors and managers receiving information regarding violation(s) of this order shall determine if there is any basis for the allegation and shall proceed with resolution as stated in Policy Manual § 328.5.1.

##### **328.4.1 SUPERVISOR RESPONSIBILITY**

Each supervisor and manager shall:

- (a) Ensure that the work environment is free from all types of unlawful discrimination, including sexual harassment
- (b) Take prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination
- (c) Train their subordinates as to what constitutes discrimination and harassment
- (d) Notify the Chief of Police in writing of the circumstances surrounding any reported allegations of discrimination/harassment no later than the next business day

Individual employees may be held personally liable for discriminatory acts, including sexual harassment.

##### **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 or harassing. 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 and sexual harassment have negative effects on the careers of innocent employees
- (c) Supervisors and managers must act responsibly in the handling of such situations
- (d) Supervisors and managers must make a determination on any allegations based upon all available facts

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

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved employees should take reasonable steps to mitigate or eliminate any continuing hostile work environment.

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#### **328.5.1 SUPERVISORY RESOLUTION**

Whenever possible, employees who believe they are experiencing discrimination and/or harassment are encouraged to inform the individual that his/her behavior is unwelcome, offensive, unprofessional or highly inappropriate. If this does not resolve the concern or if an employee feels uncomfortable, threatened, or has difficulty expressing his/her concern, supervisory or management assistance or counseling should be sought from a supervisor or manager one rank higher than the alleged offender.

#### **328.5.2 FORMAL INVESTIGATION**

Upon being notified of any complaint that cannot be satisfactorily resolved through the supervisory means cited above, the Chief of Police or his or her designee shall initiate a formal investigation.

The employee assigned to investigate the complaint will have full authority to investigate all aspects of the complaint. The investigative authority includes accessibility to records and cooperation of any employees involved. No influence will be used to suppress any complaint and (except as herein provided) no employee will be subject to retaliation or reprisal for filing a complaint, encouraging others to file a complaint or for offering testimony or evidence in an investigation.

Formal investigation of the complaint will be confidential and will include, but not be limited to, details of the specific incident, frequency and dates of occurrences and names of any witnesses.

Optional Resolution - Employees who believe they have been discriminated against or harassed because of their protected status described in Policy Manual § 328.3.1 of this procedure are encouraged to follow the chain of command but may also file a complaint directly with the Chief of Police, Director of Human Resources, or the City Manager.

#### **328.5.3 DISPOSITION OF COMPLAINTS**

Only one of the following four dispositions will be used to classify the disposition of an allegation of harassment:

**Sustained Complaints** - If the complaint is substantiated, this policy and procedure prohibiting discrimination/harassment will be reviewed with the offender. Appropriate disciplinary action and/or training, will be taken pursuant to the department disciplinary procedures.

**Not Sustained Complaints** - If there is insufficient evidence to either prove or disprove the allegation(s), both parties to the complaint will be informed of the reason(s) for this disposition.

**Unfounded Complaint** - If it is determined that an act reported pursuant to this policy/procedure did not in fact occur, a finding of unfounded shall be made.

**Exonerated Complaints** - If it is determined that an act reported pursuant to this policy/procedure did in fact occur, but was lawful and proper within the guidelines established herein, a finding of exonerated shall be made.

Should it be determined that the reporting employee filed the complaint in good faith and/or through a mistake of fact, that employee shall be counseled/trained pursuant to Policy Manual § 328.4.1(c).

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Should it be determined that the reporting employee maliciously filed the complaint knowing that it was false or frivolous at the time of the complaint, that employee shall be subject to the disciplinary process up to and including termination.

#### **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 documented on forms and in a manner designated by the Chief of Police. All reports shall be:

- Approved by the Chief of Police
- Maintained for a minimum of five years

#### **328.8 GRIEVANCE PROCEDURE**

Disputes arising out of the interpretation and enforcement of this policy and procedure shall be resolved through the established Grievance Procedure.

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

Employees having questions are encouraged to contact a supervisor, manager, the Chief of Police, Director of Human Resources, or the City Manager or they may contact the California Department of Fair Employment and Housing at (800) 884-1684.

## Child Abuse Reporting

### 330.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines and procedures for reports of suspected child abuse and the taking of minors into protective custody.

### 330.2 DEFINITIONS

For purposes of this section the following definitions are provided:

**Child** - A person under the age of 18 years.

**Child abuse or neglect** - Includes the following (Penal Code § 11165.6):

- Physical injury or death inflicted by other than accidental means upon a child by another person
- Sexual abuse as defined in Penal Code § 11165.1
- Neglect as defined in Penal Code § 11165.2
- The willful harming or injuring of a child or the endangering of the person or health of a child, as defined in Penal Code § 11165.3
- Unlawful corporal punishment or injury as defined in Penal Code § 11165.4

Child abuse or neglect does not include an altercation between minors. Child abuse or neglect does not include an injury caused by reasonable force used by a peace officer acting within the course and scope of his/her employment as a peace officer.

**Child protective agency** - A police or sheriff's department, a county probation department or a county welfare department. This section does not include school district police or security department.

### 330.3 CHILD ABUSE REPORTING

Pursuant to Penal Code § 11165.9, this department is defined as a "child protective agency". All employees of this department are responsible for the proper reporting of child abuse. Any employee who encounters any child whom he or she reasonably suspects has been the victim of child abuse shall immediately take appropriate action and prepare a crime report pursuant to Penal Code § 11166.

#### 330.3.1 MANDATORY NOTIFICATION

Pursuant to Penal Code § 11166.1, when this department receives a report of abuse occurring at the below listed facilities, notification shall be made within 24 hours to the licensing office with jurisdiction over the facility.

- A facility licensed to care for children by the State Department of Social Services
- A report of the death of a child who was, at the time of death, living at, enrolled in or regularly attending a facility licensed to care for children by the State Department of Social Services, unless the circumstances of the child's death are clearly unrelated to the child's care at the facility

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Additionally, an immediate notification is required to the appropriate licensing agency if the suspected child abuse occurs while the child is being cared for in a child day care facility, involves a child day care licensed staff person, or occurs while the child is under the supervision of a community care facility licensee or staff person.

#### **330.3.2 POLICE REPORTS**

Employees responding to incidents of suspected child abuse where it cannot initially be shown that a crime occurred shall document the incident in a general report. No suspected child abuse report is required if the incident is documented in a general or miscellaneous report.

#### **330.3.3 CONTACTING SUSPECTED CHILD ABUSE VICTIMS**

An officer should not involuntarily detain a juvenile suspected of being a victim of abuse solely for the purpose of an interview or physical exam without the consent of a parent or guardian unless any of the following apply:

- (a) Exigent circumstances exist. For example:
  - 1. A reasonable belief that medical issues need to be addressed immediately.
  - 2. It is reasonably believed that the child is or will be in danger of harm if the interview or physical exam is not immediately completed.
- (b) A court order or warrant has been issued.

In all circumstances in which a suspected child abuse victim is contacted, it will be incumbent upon the investigating officer to articulate in the related reports the overall basis for the contact and what, if any, exigent circumstances exist.

Any juvenile 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).

#### **330.3.4 RELEASE OF REPORTS**

Reports of child abuse or suspected child abuse shall be confidential and may only be disclosed pursuant to Penal Code § 11167.5 and Policy Manual § 810.

#### **330.4 INVESTIGATION RESPONSIBILITY**

The duties of the detectives assigned to investigate child abuse include but are not limited to:

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

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- (g) Coordinating with other enforcement agencies, social service agencies and school administrators in the application and enforcement of the laws regarding child abuse cases.

#### **330.5 PHYSICAL EXAMINATIONS**

If the child has been the victim of sexual abuse requiring a medical examination, the officer should arrange for transportation of the victim to the appropriate hospital. The officer will need to fill out the Medical Report - Suspected Child Sexual Abuse form, (OCJP form 925) prior to the doctor doing the examination.

#### **330.6 TEMPORARY CUSTODY OF JUVENILES**

Under specified circumstances described below, a minor may be taken into protective custody if he/she is the victim of suspected child abuse (Welfare and Institutions Code § 300 et seq.). Before taking any minor into protective custody the officer should make reasonable attempts to contact the appropriate child welfare authorities to ascertain any applicable history or current information concerning the minor.

An officer should consider taking a minor into protective custody under any of the following circumstances (Welfare and Institutions Code § 305 and Penal Code 279.6):

- (a) The officer reasonably believes the minor is a person described in Welfare and Institutions § 300, and further has good cause to believe that any of the following conditions exist:
  - 1. The minor has an immediate need for medical care.
  - 2. The minor 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 minor 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 minor into protective custody.
- (b) 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.
- (c) There is no lawful custodian available to take custody of the child.
- (d) There are conflicting custody orders or conflicting claims to custody and the parties cannot agree which party should take custody of the child.
- (e) The child is an abducted child.
- (f) The child is in the company of, or under the control of, a person arrested for Penal Code § 278 or 278.5.

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 minor or result in abduction. If this is not a reasonable option, the officer shall ensure the minor is delivered to the appropriate child welfare authority.

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.



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#### **330.7 REPORTING REQUIREMENTS**

Any incident of suspected child abuse or severe neglect for which Fullerton Police Department conducts an investigation and for which it determines that the allegations of abuse or severe neglect are substantiated must be reported to the California Department of Justice (DOJ) (Penal Code § 11165.12). The investigating officer shall fully complete a DOJ Child Abuse or Severe Neglect Indexing Form (BCIA 8583) indicating the finding of possible child abuse or severe neglect. Detailed instructions for filling out the DOJ form may be found on the DOJ [website](#) (Penal Code § 11165.2; Penal Code § 11169).

The Technical Services Manager shall maintain the investigative reports pursuant to Penal Code § 11169 and shall promptly forward the completed BCIA 8583 to the DOJ. The Technical Services Manager shall also forward any subsequent information that changes the status of the case, for example, an acquittal or a decision that the allegation is unfounded.

#### **330.8 NOTICE OF INCLUSION IN THE CHILD ABUSE CENTRAL INDEX (CACI)**

Any time Fullerton Police Department forwards a Child Abuse or Severe Neglect Indexing Form to the California DOJ pursuant to Penal Code § 11169, the Technical Services Manager shall mail a notice to the suspect's last known address via certified mail stating that the suspect has been reported to CACI (Penal Code § 11169). The Technical Services Manager shall verify that such notice will not interfere with an active investigation. Officers may personally deliver the form to the suspect when applicable and should document this delivery in the appropriate report.

#### **330.9 REQUESTS FOR REMOVAL FROM THE CHILD ABUSE CENTRAL INDEX**

Any person whose name was placed on the California's CACI as a result of an investigation by this agency 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. All requests for removal shall be submitted in writing by the requesting person and promptly routed to the CACI hearing officer (Penal Code § 11169).

##### **330.9.1 CACI HEARING OFFICER**

The Detective 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.

##### **330.9.2 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

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- (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 unfounded. Unsubstantiated or inconclusive findings are not sufficient reasons to proceed with a request for removal from CACI.

If, after considering the evidence, the hearing officer finds that the allegations are unfounded, 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.

## Missing Person Reporting

### 332.1 PURPOSE AND SCOPE

This policy provides guidance for handling missing person investigations.

#### 332.1.1 DEFINITIONS

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

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

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

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

### 332.2 POLICY

The Fullerton 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 Fullerton 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 Detective supervisor shall ensure the following 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:

- Missing Person Report Form
- 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
- Missing Person Report Form from the California Department of Justice
- 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 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 at risk.
- (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 networks as follows:
  1. Immediately when the missing person is at risk
  2. In all other cases, as practicable but not later than two hours from the time of the initial report
- (f) Notify a supervisor if the missing person may qualify for a public alert, as provided in the Public Alerts Policy.
- (g) Complete the Department's missing person report forms accurately and completely.
- (h) Collect and/or review the following:
  1. A photograph and a fingerprint card of the missing person, if available
  2. A voluntarily provided DNA sample of the missing person, if available (toothbrush, etc)
  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 (cell phones, computers, etc)
- (i) Contact the lead agency if the report relates to a previously made missing person report and another agency is actively investigating that report. When this is not practical, the information should be documented in an appropriate report for transmission to the appropriate agency. If the information relates to an at risk missing person, the officer should notify a supervisor and proceed with reasonable steps to locate the missing person.

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

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

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#### **332.6.1 SUPERVISOR RESPONSIBILITIES**

The supervisor shall review and approve missing person reports upon receipt and ensure resources are deployed as appropriate. The reports should be promptly sent to Technical Services 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 TECHNICAL SERVICES 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 (California 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 re-contact the reporting person and/or other witnesses within 30 days of the initial report and within 30 days thereafter to determine if any additional information has become available via the reporting party.
- (c) Should consider contacting other agencies involved in the case to determine if any additional information is available.
- (d) Shall verify and update CLETS, NCIC and any other applicable missing person networks within 60 days of the original entry into the networks and every 45 days thereafter until the missing person is located (42 USC § 5780).
- (e) Should continue to make reasonable efforts to locate the missing person and document these efforts at least every 45 days.
- (f) Shall maintain a close liaison with the National Center for Missing and Exploited Children if the missing person is under the age of 21 (42 USC § 5780).

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- (g) Should make appropriate inquiry with the coroner or medical examiner and obtain and forward medical records, photos, x-rays and DNA samples pursuant to Penal Code § 14206 and Penal Code § 14250.
- (h) 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).
- (i) Should consider making appropriate entries and searches in the National Missing and Unidentified Persons System (NamUs). (NamUs is a free online system that can be searched by medical examiners, coroners, law enforcement officials and the general public to solve these cases).

### **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 and notify the reporting party and other involved agencies.

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

- (a) Notification is made to California DOJ.
- (b) The missing child'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)).

### **332.9 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 Fullerton or this department is the lead agency, the case should be kept under active investigation for as long as the person may still be alive. Exhaustion of leads in the investigation should not be a reason for closing a case.
- (c) If this department is not the lead agency, the case can be made inactivate 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. This policy addresses AMBER Alerts, Blue Alerts and other methods of public notification.

### 334.2 AMBER ALERTS - ABDUCTIONS

The America's Missing: Broadcast Emergency Response Program (AMBER Alert™) is the recruitment of public assistance to locate an abducted child via a widespread media alert. Utilizing the assistance of local radio, television and press affiliates, the public will be notified of the circumstances of a child abduction and how they can assist law enforcement in the recovery of the child. The goal is the safety of the public and law enforcement and the successful apprehension of the suspect by establishing an effective partnership between the community, the media and law enforcement.

#### 334.2.1 AMBER ALERT DEFINITIONS

**Abduction** - Any child under the age of 18-years who has been unwillingly removed from his/her environment without permission from the child's legal guardian or a designated legal representative.

#### 334.2.2 CHILD ABDUCTION CRITERIA

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

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

#### 334.2.3 PROCEDURE FOR AMBER ALERT

In the event of a confirmed child abduction, the following procedures designed to alert the media shall be followed.

- (a) The Press Information Officer, Watch Commander or Detective Supervisor will prepare an initial press release that includes all available information which 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 phone number of the Press Information Officer or other authorized individual to handle media liaison

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7. A telephone number for the public to call to provide leads and information
- (b) Fax the press release to the local television and radio stations.
- (c) The information in the press release should also be forwarded to the Sheriff's Department Emergency Communications Bureau so that general broadcasts can be made to local law enforcement agencies.
- (d) The individual responsible for making notifications shall also consider the following resources as the circumstances dictate:
  1. Emergency Alert System sites (EAS)
  2. California Highway Patrol (CHP)
  3. California Law Enforcement Telecommunication System (CLETS) message to activate the Emergency Digital Information System (EDIS)
  4. FBI local office
  5. Prompt entry of information into the California Department of Justice Missing and Unidentified Persons System (MUPS)/National Crime Information Center (NCIC)
  6. National Center for Missing and Exploited Children, 800-843-5678
- (e) The investigation unit supervisor investigating the abduction or other individual responsible for making notifications shall prepare and fax to the previously described locations, follow-up press releases with updates regarding the search and investigation, or immediately upon locating the abducted child.

### **334.3 BLUE ALERTS - ASSAULT ON LAW ENFORCEMENT OFFICER**

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

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

#### **334.3.1 PROCEDURE FOR BLUE ALERT**

In the event of an assault with a deadly weapon, serious bodily injury or death of an officer, the following procedures designed to alert the media shall be followed.

- (a) The Press Information Officer, Watch Commander or Detective Supervisor will prepare an initial press release that includes all available information which 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



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4. Detail regarding location of incident, direction of travel, potential destinations, if known
  5. Name and phone number of the Press Information Officer or other authorized individual to handle media liaison
  6. A telephone number for the public to call in with leads/information
- (b) Fax the press release to the local television and radio stations.
- (c) The information in the press release should also be forwarded to the Sheriff's Department Emergency Communications Bureau so that general broadcasts can be made to local law enforcement agencies.
- (d) The individual responsible for making notifications shall also consider the following resources as the circumstances dictate:
1. Emergency Alert System sites (EAS)
  2. California Highway Patrol (CHP)
  3. California Law Enforcement Telecommunication System (CLETS) message to activate the Emergency Digital Information System (EDIS)
  4. FBI local office
- (e) The investigation unit supervisor investigating the incident or other individual responsible for making notifications shall prepare and fax to the previously described locations, follow-up press releases with updates regarding the search and investigation, or immediately upon locating the suspect and or suspect vehicle (Government Code § 8594.5).

#### **334.4 ALERT RESPONSIBILITY**

The employee receiving the report shall notify the Watch Commander or appropriate Detective Supervisor as soon as practical. The Watch Commander or Detective Supervisor will then determine whether to inform the media and other allied resources of the incident via an AMBER Alert or Blue Alert. The Watch Commander or Detective Supervisor shall promptly notify the Chief of Police and the appropriate Division Commander.

#### **334.5 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 as call takers in the event of high call volume.

If the Watch Commander or Detective 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 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.

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Fullerton 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 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.

## Homeland Security

### 335.1 PURPOSE AND SCOPE

The purpose of this policy is to establish criteria for response to the elevation of the The National Terrorism Advisory System, or NTAS. This system is designed to more effectively communicate information about terrorist threats by providing timely, detailed information to the public, government agencies, first responders, airports and other transportation hubs, and the private sector. The NTAS advisory system recognizes that Americans all share responsibility for the nation's security, and should always be aware of the heightened risk of terrorist attack in the United States and what they should do.

### 335.2 THREAT CONDITIONS

The following NTAS Alerts are provided by the Department of Homeland Security. These alerts will include a clear statement that there is an imminent threat or elevated threat. Using available information, the alerts will provide a concise summary of the potential threat, information about actions being taken to ensure public safety, and recommended steps that individuals, communities, businesses and governments can take to help prevent, mitigate or respond to the threat:

- (a) **Imminent Threat Alert** - Warns of a credible, specific, and impending terrorist threat against the United States.
- (b) **Elevated Threat Alert** - Warns of a credible terrorist threat against the United States.

#### 335.2.1 SUNSET PROVISIONS

NTAS Alerts contain a sunset provision indicating a specific date when the alert expires. There will not be a constant NTAS Alert or blanket warning that there is an overarching threat. If threat information changes for an alert, the Secretary of Homeland Security may announce an updated NTAS Alert. All changes, including the announcement that cancels an NTAS Alert, will be distributed the same way as the original alert.

#### 335.2.2 ALERT ANNOUNCEMENTS

Each alert provides information to the public about the threat, including, if available, the geographic region, mode of transportation, or critical infrastructure potentially affected by the threat; protective actions being taken by authorities, and steps that individuals and communities can take to protect themselves and their families, and help prevent, mitigate or respond to the threat. NTAS Alerts will be issued through state, local and tribal partners, the news media and directly to the public via their website (<http://www.dhs.gov/alerts>), email (by signing up through the above website), social media (Facebook, Twitter) and data feeds.

The public can also expect to see alerts in places, both public and private, such as transit hubs, airports and government buildings.

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## Victim Witness Assistance Program

### 336.1 PURPOSE AND SCOPE

The Fullerton Police Department is committed to providing guidance and assistance to the victims and witnesses of crime. It is the goal of the Fullerton Police Department to facilitate such assistance through available government and private resources. Employees should remain sensitive to the needs of victims and witnesses.

### 336.2 VICTIM INDEMNIFICATION

Law enforcement agencies are charged with the responsibility of notifying the victims of violent crimes of their right to indemnification. For the purpose of indemnification by the State of California, the definition of victim shall include (Government Code § 13950 et seq.):

- (a) A person who sustains injury or death as a direct result of a crime.
- (b) A person legally dependent for support upon a person who sustains injury or death as a direct result of a crime.
- (c) A family member or any person in close relationship to a victim who was present during the commission of the crime and whose treatment or presence during treatment of the victim is required for successful medical treatment.
- (d) Any individual who legally assumes the obligation or who voluntarily pays the medical or burial expenses incurred as a direct result of a death caused by a crime.

#### 336.2.1 CRIME DEFINED

Crime shall mean a crime or public offense as defined in Penal Code § 15, which results in injury to a resident of this state, including such a crime or public offense, wherever it may take place, when such resident is temporarily absent from the state. No act involving the operation of a motor vehicle, aircraft, or water vehicle which results in injury or death shall constitute a crime of violence for the purposes of this article, except that a crime of violence shall include an:

- (a) Injury or death intentionally inflicted through the use of a motor vehicle, aircraft, or water vehicle.
- (b) Injury or death sustained in an accident caused by a driver in violation of Vehicle Code §§ 20001, 23152, or 23153.
- (c) Injury or death caused by a driver of a motor vehicle in the immediate act of fleeing the scene of a crime in which he/she knowingly and willingly participated.
- (d) Injury or death caused by a person fleeing from law enforcement in a vehicle (Government Code § 13955(e)(2)(F)).

### 336.3 ADVISEMENT RESPONSIBILITY

Every employee reporting or investigating a crime where a victim has suffered direct or threatened physical, psychological or financial harm as a result of the commission or attempted commission of a crime or delinquent act will ensure the victim has been provided with information about the existence of the local victim centers. This may be accomplished by providing the victim the *Marsy's Card* with the case report number noted on the card (Cal. Penal Code § 679.026). A Victim of Violent Crime form should also be provided if the victim suffered an injury as a direct or proximate cause of that crime.

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If for any reason the investigating employee is unable to complete the above notifications such fact shall be noted in the related case report and the notifications should be completed by the assigned detective.

The Technical Services Manager is responsible for obtaining or publishing a *Marsy's Card* as described in Cal. Penal Code § 679.026 and making a sufficient supply of *Marsy's Cards* available to Fullerton Police Department employees.

#### **336.3.1 REPORTING OFFICER RESPONSIBILITY**

It shall be the primary responsibility of the reporting officer to make the required advisement as set forth in Policy Manual § 336.3. The officer shall not attempt advisement when the circumstances are such that the advisement would add to the grief and suffering of victim or dependent. Such advisement shall be made at a time and place where the victim is able to understand and appreciate its meaning.

Whenever there is an alleged violation of Penal Code §§ 243(e), 261, 261.5, 262, 273.5, 286, 288a, or 289, the assigned officer shall accomplish the following:

- (a) Immediately provide the victim with the "Victims of Domestic Violence" card containing the names and locations of rape victim counseling centers within the county and their 24-hour counseling service telephone numbers (Penal Code § 264.2(a)).
- (b) If victim is transported to a hospital for any medical evidentiary or physical examination the officer shall immediately cause the local rape victim counseling center to be notified (Penal Code § 264.2(b)(1)).
  1. Prior to any such examination the assigned officer shall ensure that the victim has been properly informed of their right to have a sexual assault victim counselor and at least one other support person present (Penal Code § 264.2(b)(2)).
  2. A support person may be excluded from the examination by the officer or the medical provider if their presence would be detrimental to the purpose of the examination (Penal Code § 264.2(b)(4)).

#### **336.3.2 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 their 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)).

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)).

#### **336.3.3 DETECTIVE RESPONSIBILITY**

In the event the victim cannot be identified or due to the nature of the injury cannot be advised, the investigating officer who later contacts or identifies the victim and/or dependents shall make the necessary advisement. The investigating officer shall use discretion and tact in making such advisement.

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#### **336.3.4 SUPERVISOR RESPONSIBILITY**

It is the responsibility of any supervisor approving a written report where the victim of a crime has sustained injury to ensure that information is included to document the proper advisement being made or the fact that such advisement could not be accomplished. The Detective Supervisor is then responsible to ensure that the proper advisement is accomplished and properly documented as the follow-up investigation is conducted.

#### **336.3.5 VICTIM INFORMATION AND NOTIFICATION**

When appropriate, officers should advise the victim of the availability of the Victim Information and Notification Everyday (VINE) program. VINE is a free, computer-based telephone service that allows victims to check on an offender's custody status and register to receive automatic notification when an inmate is released from jail. The contact phone number for VINE is printed on the Fullerton Police Department Victim Information card.

#### **336.4 TECHNICAL SERVICES BUREAU RESPONSIBILITY**

The Technical Services Manager shall be the designated Victims of Crime Liaison Officer, liaison to the Victim-Witness Assistance Program office. It shall be his/her responsibility to forward copies of police reports requested by personnel at 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 Government Code § 13962(b) and 2 CCR 649.35 and devise and implement written procedures pursuant to 2 CCR 649.36 in order to notify and provide the required compensation information to victims. The Release of Records and Information Policy in this manual regarding release of reports shall be followed in all cases.

## 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 either a violation of Penal Code § 422.6 or 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) Gender
- (c) Nationality
- (d) Race or ethnicity
- (e) Religion
- (f) Sexual orientation
- (g) Association with a person or group with one or more of these actual or perceived characteristics

### 338.3 CRIMINAL STATUTES

**Penal Code § 422** - Prohibits verbal, written or electronically transmitted threats to commit great bodily injury or death to another person or to his/her immediate family.

**Penal Code § 422.6(a)** - Prohibits the use of force or threats of force to willfully injure, intimidate, interfere with, oppress or threaten any person in the free exercise or enjoyment of rights and privileges secured by the Constitution or law because of the person's real or perceived characteristics listed in Penal Code § 422.55(a). Speech alone does not constitute a violation of this section except when the speech itself threatens violence and the defendant has the apparent ability to carry out the threat.

**Penal Code § 422.6(b)** - Prohibits knowingly defacing, damaging or destroying the real or personal property of any person for any of the purposes set forth in Penal Code § 422.6(a).

**Penal Code § 422.7** - Provides for other criminal offenses involving threats, violence or property damage in excess of \$400 to become felonies if committed for any of the purposes set forth in Penal Code 422.6.

**Penal Code § 422.56** - Defines gender for purposes of various hate crime statutes to mean the victim's actual sex or a person's gender identity and gender-related appearance and behavior, whether or not it is stereotypically associated with the person's assigned sex at birth.

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**Penal Code § 422.77** - Provides for the criminal enforcement of any order issued pursuant to Civil Code § 52.1.

**Penal Code § 11411** - Prohibits terrorizing by placing or displaying any unauthorized sign, mark, symbol, emblem or other physical impression (including a Nazi swastika, a noose or burning cross).

**Penal Code § 11412** - Prohibits terrorizing threats of injury or property damage to interfere with the exercise of religious beliefs.

**Penal Code § 594.3** - Prohibits vandalism to religious buildings or places of worship.

**Penal Code § 11413** - Prohibits use of explosives or other destructive devices for terrorizing another at health facilities, places of religion, group facilities and other specified locations.

**18 USC § 245** - Federal law also prohibits discrimination-based acts and may be considered in addition to or in lieu of state law, depending on the circumstances.

### **338.4 CIVIL STATUTES**

Civil Code § 51.7 - Except for statements made during otherwise lawful labor picketing, all persons in this state have the right to be free from any violence or intimidation by threat of violence against their person or property because of actual or perceived race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, disability or position in a labor dispute.

Civil Code § 52 - Provides for civil suit by individual, Attorney General, District Attorney or City Attorney for violation of Civil Code § 51.7, including damages, Temporary Restraining Order and injunctive relief.

Civil Code § 52.1 - Provides for Temporary Restraining Order and injunctions for violations of individual and Constitutional rights enforceable as criminal conduct under Penal Code § 422.9.

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

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

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

### **338.6 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:



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- (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).

#### **338.6.1 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

#### **338.7 TRAINING**

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

## **Disciplinary Policy**

### **340.1 PURPOSE AND SCOPE**

To provide employees of this department with guidelines for their conduct in order that they may participate in meeting the goals of this department in serving the community. This policy shall apply to all sworn and civilian members of this department (including part-time and reserve employees). This policy is intended for internal use only and shall not be construed to increase or establish an employee's civil or criminal liability. Nor shall it be construed to create or establish a higher standard of safety or care. A violation of any portion of this policy may only serve as the basis for internal disciplinary and/or administrative action.

### **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) Feigning illness or injury to avoid duty.
- (e) Officers shall have regular hours assigned to them for active duty, and when not so engaged, are considered "off duty." They shall, however, be subject to callback for duty as needed provided they are mentally and physically able to safely perform their assignment. While off duty, officers may perform a police service for any matter coming to their attention other than minor traffic violations. When so engaged, they shall have the same status as when on-duty for a regularly scheduled shift.
- (f) Upon receiving an official callback notice, off-duty officers shall, if mentally and physically able, report for duty immediately and in compliance with the directions given at the time of notification.
- (g) Failure to notify the Department within 24 hours of any change in residence address, home phone number, or marital status. Employees shall not use the address of the

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- City or the Department for personal reasons, except for authorized DMV registration purposes or as otherwise authorized by the Chief of Police.
- (h) Employees whose duties include the driving of a Department vehicle shall possess a valid driver's license of the applicable classification issued by the State of California and such license shall be carried at all times when so engaged.
  - (i) It is the responsibility of each employee to keep our agency and City Personnel Department informed of his/her emergency contact and beneficiary information. Changes in marital status, such as marriage, domestic partnerships, separations, divorce and deaths of dependents may necessitate a need to change or update the employee's emergency contact or beneficiary information.

#### **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 where the City currently or likely to be an interested party without timely notification to the Chief of Police of such action. This excludes civil actions initiated by the employee against the City. (ie workers comp claims, discrimination, etc.)
- (c) Using departmental resources in association with any portion of their independent civil action. These resources include, but are not limited to, personnel, vehicles, equipment and non-subpoenaed records.
  - 1. Employees shall not use a city-owned vehicle for the purpose of conveying them between their residence and place of work, or keep any police vehicle overnight, or on weekends or holidays at their place of residence, unless specifically authorized by the Chief of Police, a Division Commander or the authorized supervisor.
  - 2. Department telephones are intended for official business. Any personal use shall be minimized and all toll call expense from personal calls shall be reimbursed to the City.
  - 3. Department issued cellular phones are for business purposes. The Department has authorized employees to make personal calls; however, employees shall reimburse the City for those calls. The Department will pay for all duty calls. Short duration calls of less than three minutes in length to the employee's home to advise of duty status, or check on family welfare are considered duty calls. The use of cell phones is generally prohibited in the communications center and at the front desk.
- (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. Excluding minor traffic or parking infractions.

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- (h) Using or disclosing one's status as an employee with the Department in any way that could reasonably be perceived as an attempt gain influence or authority for non-departmental business or activity.
- (i) Seeking restraining orders against individuals encountered in the line of duty without the prior notification of the Chief of Police.
- (j) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department.
- (k) Unwelcome solicitation of a personal or sexual relationship while on duty or through the use of official capacity.
- (l) Engaging in on-duty sexual relations including, but not limited to, sexual intercourse.
- (m) The failure of an employee to ensure that any firearm has been cleared and is rendered safe prior to dry firing the weapon or depressing the trigger.
- (n) While on duty, officers shall not post bail for any arrested person. They shall not recommend an individual, attorney, bondsman, bail broker, or any particular firm or place of business to a citizen, except as may be specifically authorized by order of a supervisor or Department policy.
- (o) 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.
- (p) Willful mistreatment of a prisoner.
- (q) Aiding or permitting a prisoner to escape.

#### **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.
- (b) Unauthorized possession or use of, or attempting to bring intoxicants to the work site, except as authorized in the performance of an official assignment. An employee who is authorized to consume intoxicants is not permitted to do so to such a degree that it may impair on-duty performance
- (c) Reporting for work or being at work following the use of a "controlled substance" or any drug (whether legally prescribed or otherwise) where such use may impair the employee's ability to perform assigned duties
- (d) Unauthorized possession, use of, or attempting to bring controlled substance or other illegal drug to any work site

#### **340.3.5 PERFORMANCE**

- (a) Unauthorized sleeping during on-duty time or assignments.
- (b) Careless workmanship resulting in spoilage or waste of materials or work of an unacceptable nature as applicable to the nature of the work assigned.
- (c) Unsatisfactory work performance, including but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work

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assignments or instructions of supervisors without a reasonable and bona fide excuse.

1. Should such order conflict with any general or special order, provision of the manual, or previous order from another supervisor, the employee shall promptly and respectfully call attention to such conflict for the benefit of the supervisor(s) involved. If the supervisor does not change his/her order to avoid or eliminate the conflict, the last order given shall stand. The employee may demand the order in writing during non-emergency situations, and the employee involved will not be held in any way responsible for disobedience to the previous order(s).
- (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 and is not otherwise protected by law.
  - (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(s).
  - (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) Any knowing or negligent violation of the provisions of the department manual, operating procedures or other written directive of an authorized supervisor. Employees shall familiarize themselves with and be responsible for compliance with each of the above and the Department shall make each available to the employees
  - (m) 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.
  - (n) Criminal, dishonest, infamous or disgraceful conduct adversely affecting the employee/employer relationship, whether on or off duty.
  - (o) 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.
  - (p) Failure to take reasonable action while on-duty and when required by law, statute, resolution or approved department practices or procedures.
  - (q) 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.
- (r) Employees shall not accept, directly or indirectly, any gratuity, fee, loan, reward, or gift whatsoever from any person or business in violation of the City of Fullerton Gratuity Policy. No employee shall transact business with any person while that person is confined in the City Jail.
  - (s) Misappropriation or misuse of public funds.
  - (t) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
  - (u) 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.
  - (v) 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.
  - (w) 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.
  - (x) Engaging in political activities during assigned working hours except as expressly authorized by the Chief of Police.
  - (y) Violating any misdemeanor or felony statute.
  - (z) 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.
  - (aa) On-duty employees shall not loiter in public places or businesses except for the purpose of transacting police business or taking regular meals or breaks.
  - (ab) While on duty, officers shall not post bail for any arrested person. They shall not recommend an individual, attorney, bondsman, bail broker, or any particular firm or place of business to a citizen, except as may be specifically authorized by order of a supervisor or Department policy.
  - (ac) Employees shall not engage in any activities or personal business which would cause them to neglect or be inattentive to their duties.
  - (ad) Failure to maintain required and current licenses (e.g. driver's license) and certifications (e.g. first aid).

#### **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 of when the employee would reasonably realized that an injury had occurred.

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- (c) Substantiated employee record of unsafe or improper driving habits or actions in the course of employment.
- (d) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.
- (e) Any personal action contributing to involvement in a preventable traffic collision, or other unsafe or improper driving habits or actions in the course of employment.
- (f) Violating departmental safety standards or safe working practices.

#### **340.3.7 SECURITY**

- (a) Unauthorized, intentional release of designated confidential information, materials, data, forms or reports

#### **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 their Division Commander within thirty-days of receipt of the written reprimand. Absent a written stipulation to the contrary, the employee will be provided with an evidentiary hearing before the Division Commander within 30 days. The Division Commander decision to sustain, modify or dismiss the written reprimand shall be considered final, unless appealed to the Chief of Police.

#### **340.5 POST INVESTIGATION PROCEDURES**

##### **340.5.1 DIVISION COMMANDER RESPONSIBILITIES**

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

The Division Commander 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 Commander 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 Commander shall include all relevant materials on which the recommendation is based. Actual copies of an employee's existing personnel file need not be provided and may be incorporated by reference.

#### **340.5.2 RESPONSIBILITIES OF ADMINISTRATIVE STAFF**

Upon receipt of any written recommendation from a Division Commander for disciplinary action against an employee, the Administrative Staff shall review the recommendation and all accompanying materials.

The Administrative Staff may modify any recommendations and/or may return the file to the Division Commander for further investigation or action.

Once the Chief is satisfied that no further investigation or action is required by Staff, the Chief shall determine the amount of discipline, if any, to be imposed.

In the event disciplinary action is recommended, the Division Commander 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 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 ten (10) 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 (audio or video) by the Department and the employee, if the employee so elects. Upon request, the employee shall be provided with a copy of the Department recording.
- (e) A copy of the complete investigation will be provided to the employee upon request.

#### **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.



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- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.
- (d) In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results of such subsequent investigation prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issue(s) 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. The Chief of Police shall thereafter render a timely written decision to the employee 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(s) for termination and the process to receive all remaining fringe and retirement benefits.
- (g) Once the Chief of Police has issued a written decision, and the employee has been given personal service or delivery by mail, the discipline shall become effective.

#### **340.7 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.

#### **340.8 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, with the understanding that a record of the Skelly proceeding will be made. 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.
- (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.

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- (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 administrative appeal beyond the Chief of Police.

### **340.9 TYPES OF DISCIPLINARY ACTION**

Employees of the Department may be subject to the following types of disciplinary action:

- (a) Written reprimands
- (b) Delay of step raise
- (c) Transfer for purposes of punishment.
- (d) Suspension
- (e) Loss of benefits or assignment
- (f) Reduction in pay step
- (g) Demotion
- (h) Dismissal

#### **340.9.1 DISCIPLINARY SUSPENSION**

When an employee is subject to disciplinary action resulting in suspension, the employee may request that one or more of the following options be considered by the Administrative Staff in lieu of time off with loss of pay:

- (a) Enrollment in a rehabilitative or retraining course of study, work-related seminar/class or work-associated study project mutually acceptable to the employee and the police administration, which may be required at the employee's own cost or expense and on his/her own time. Any such request shall be granted solely at the discretion of the Administrative Staff with consideration being given to the following factors:
  - 1. The severity of the charge as sustained.
  - 2. The previous disciplinary record of the affected employee.
  - 3. The potential value of the alternative to the employee's retraining toward job fitness or rehabilitation.
  - 4. Past practice for Department discipline for similar offenses.
  - 5. The impact to the watch or detail of the suspended employee, which may require replacement due to the suspension.
- (b) If the imposed discipline is suspension without pay, it may be the employee's option to reduce his/her vacation balance in lieu of being absent without pay as outlined in the affected employee's current MOA.
- (c) Failure of the employee to successfully complete an approved alternative discipline will reinstate that which was originally prescribed. No employee on disciplinary suspension will be allowed to work any form of overtime at the Department during that period of suspension.

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#### **340.9.2 AUTHORITY TO RELIEVE FROM DUTY**

Whenever it is deemed necessary for the preservation of good order, efficiency, and discipline in the Department, and pending further investigation, any supervisor may relieve an employee of lesser rank from duty with pay. When practical, the supervisor shall seek prior approval from the Division Commander or Chief of Police before relieving an employee from duty with pay.

When an employee has been relieved from duty, the supervisor will submit a written report of the circumstances to his or her Division Commander as soon as possible. In the event a supervisor finds it necessary to temporarily relieve an employee from duty, the badge, the weapon, identification card, and station keys if issued, may be obtained from the relieved employee based on the severity and circumstances of the offense.

When an employee is suspended from duty and is under extreme emotional stress or under the influence of alcohol or drugs, all Department issued firearms may be seized. Attempts may also be made to secure off-duty and/or backup weapons from the suspended employee.

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## Department Technology 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 Fullerton 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 computer system, any and all temporary or permanent files, 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 computer 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. However, incidental and minimal personal use which does not interfere with the employee's performance, may be authorized under reasonable circumstances and will not be a violation of this policy. 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, blogging, social networking sites, 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.

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#### **342.7 PROTECTION OF AGENCY SYSTEMS AND FILES**

All employees have a duty to protect the system and related systems and devices from physical and environmental damage and are responsible for the correct use, operation, care, and maintenance of the system.

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

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## Report Preparation

### 344.1 PURPOSE AND SCOPE

Report preparation is a major part of each officer's job. The purpose of reports is to document sufficient information to refresh the officer's memory and to provide sufficient information for follow-up investigation and successful prosecution. Report writing is the subject of substantial formalized training and on-the-job training.

#### 344.1.1 REPORT PREPARATION

Employees should ensure that reports are sufficiently detailed for their purpose and free from errors prior to submission. It is the responsibility of the assigned employee to complete and submit all reports taken during the shift before going off-duty unless permission to hold the report has been approved by a supervisor. Generally, reports requiring prompt follow-up action on active leads, or arrest reports where the suspect remains in custody should not be held.

Handwritten reports must be prepared legibly. If the report is not legible, the submitting employee will be required by the reviewing supervisor to promptly make corrections and resubmit the report. Employees who dictate reports shall use appropriate grammar, as content is not the responsibility of the typist. Employees who generate reports on computers are subject to all requirements of this policy.

All reports shall accurately reflect the identity of the persons involved, all pertinent information seen, heard or assimilated by any other sense, and any actions taken. Employees shall not suppress, conceal or distort the facts of any reported incident, nor shall any employee make a false report orally or in writing. Generally, the reporting employee's opinions should not be included in reports unless specifically identified as such.

### 344.2 REQUIRED REPORTING

Written reports are required in all of the following situations on the appropriate department approved form unless otherwise approved by a supervisor.

#### 344.2.1 CRIMINAL ACTIVITY REPORTING

When an employee responds to a call for service, or as a result of self-initiated activity becomes aware of any activity where a crime has occurred, the employee is required to document the activity. The fact that a victim is not desirous of prosecution is not an exception to documenting a report. The following are examples of required documentation:

- (a) In every instance where a felony or misdemeanor has occurred, the documentation shall take the form of a written crime report
- (b) In every case where any force is used against any person by police personnel
- (c) All incidents involving domestic violence
- (d) All arrests

#### 344.2.2 NON-CRIMINAL ACTIVITY

The following incidents shall be documented using the appropriate approved report:

- (a) Anytime a person is reported missing, regardless of jurisdiction

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- (b) Any found property or found evidence
- (c) Any incident involving the death of a human being (see Death Investigations Policy in this manual)
- (d) Any traffic collisions above the minimum reporting level (see Traffic Collision Reporting Policy in this manual)
- (e) All protective custody detentions

#### **344.2.3 DEATH CASES**

Death investigations require specific investigation methods depending on circumstances and should be handled in accordance with Policy § 360 Death Investigations. The handling officer should notify and apprise a supervisor of the circumstances surrounding the incident to determine how to proceed. The following cases shall be appropriately investigated and documented using the approved report:

- (a) Sudden or accidental deaths.
- (b) Suicides.
- (c) Homicide or suspected homicide.
- (d) Unattended deaths (No physician or qualified hospice care in the 20 days preceding death).
- (e) Found dead bodies or body parts.

#### **344.2.4 INJURY OR DAMAGE BY CITY PERSONNEL**

Reports shall be taken if an injury occurs that is a result of an act of a City employee. Additionally, reports shall be taken involving damage to City property or City equipment.

#### **344.2.5 MISCELLANEOUS INJURIES**

Any injury that is reported to this department shall require a report when:

- (a) The injury is a result of drug overdose
- (b) Attempted suicide
- (c) The injury is major/serious, whereas death could result
- (d) The circumstances surrounding the incident are suspicious in nature and it is desirable to record the event

The above reporting requirements are not intended to be all-inclusive. A supervisor may direct an employee to document any incident he/she deems necessary.

#### **344.2.6 MANDATORY REPORTING OF JUVENILE GUNSHOT INJURIES**

A report shall be taken when any incident in which a child 18 years or younger suffered an unintentional or self-inflicted gunshot wound. The Technical Services 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).

#### **344.3 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



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processed according to established priorities or according to special priority necessary under exceptional circumstances.

#### **344.3.1 GENERAL POLICY OF HANDWRITTEN REPORTS**

Some incidents and report forms lend themselves to block print rather than typing. In general, the narrative portion of those reports where an arrest is made or when there is a long narrative should be typed or dictated.

Supervisors may require, with the foregoing general policy in mind, block printing or typing of reports of any nature for departmental consistency.

#### **344.3.2 GENERAL USE OF OTHER HANDWRITTEN FORMS**

County, state and federal agency forms may be block printed as appropriate. In general, the form itself may make the requirement for typing apparent.

#### **344.4 REPORT CORRECTIONS**

Supervisors shall review 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.

#### **344.5 REPORT CHANGES OR ALTERATIONS**

Reports that have been approved by a supervisor and submitted to the Technical Services 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 Technical Services 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 Fullerton Police Department has established an electronic signature procedure for use by all employees of the Fullerton Police Department. The Uniform Captain shall be responsible for maintaining the electronic signature system and ensuring that each employee creates a unique, confidential password for his/her electronic signature.

- (a) Employees may only use their electronic signature for official reports or other official communications.
- (b) 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 Commanders, 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

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for a TFR should be routed through the Watch Commander. The TFR request should include specific information regarding the perimeter and altitude necessary for the incident and should be requested through the appropriate control tower. If the control tower is not known, the Federal Aviation Administration should be contacted (14 CFR § 91.137).

- (c) No member of this department who is under investigation shall be subjected to media visits or interviews without the consent of the involved employee (Government Code § 3303(e)).
- (d) Media interviews with individuals who are in custody should not be permitted without the approval of the Chief of Police and the express consent of the person in custody.

A tactical operation should be handled in the same manner as a crime scene, except the news media shall be permitted within the outer perimeter of the scene, subject to any restrictions as determined by the supervisor in charge. Department members shall not jeopardize a tactical operation in order to accommodate the news media. All comments to the media shall be coordinated through a supervisor or the Press Information Officer.

#### **346.3.1 PROVIDING ADVANCE INFORMATION**

To protect the safety and rights of officers and other persons, advance information about planned actions by law enforcement personnel, such as movement of persons in custody or the execution of an arrest or search warrant, should not be disclosed to the news media, nor should media representatives be invited to be present at such actions except with the prior approval of the Chief of Police.

Any exceptions to the above should only be considered for the furtherance of legitimate law enforcement purposes. Prior to approving any exception the Chief of Police will consider, at minimum, whether the release of information or presence of the media would unreasonably endanger any individual, prejudice the rights of any person or is otherwise prohibited by law.

#### **346.3.2 INFORMATION CONCERNING INVESTIGATIONS**

When an investigation is ongoing, and additional information is requested by press representatives, they will be referred to the appropriate Division Commander, that Commander's designate, the Department P.I.O., or the City's P.I.O.

#### **346.4 SCOPE OF INFORMATION SUBJECT TO RELEASE**

The Department will maintain a Press Log of significant law enforcement activities that shall be made available for public viewing. Access and publication process of the Press Log is described in section 810.3.8.

At no time shall identifying information pertaining to a juvenile arrestee, victim or witness be publicly released without prior approval of a competent court.

Information concerning incidents involving certain sex crimes and other offenses set forth in Government Code § 6254(f) shall be restricted in accordance with applicable statutory provisions.

Identifying information concerning deceased individuals shall not be released to the media until notification of next of kin or otherwise cleared through the Coroner's Office.

Any requests for copies of related reports or additional information not contained in this log shall be referred to the designated department media representative, the custodian

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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)).

#### **346.5 INFORMATION THAT SHALL NOT BE PROVIDED TO THE MEDIA**

The Watch Commander will have the authority and responsibility to withhold anything from the information log that may indicate any of the following information:

- (a) The prior criminal record or statements as to the character or reputation of a defendant.
- (b) The existence or contents of any purported confession, admission, or statements given by the defendant, or his refusal or failure to make such statements.
- (c) The performance or results of any tests or examination, or refusal or failure to take such a test or examination.
- (d) The name, addresses, identity, testimony, or credibility of any prospective victim or witness to a crime.
- (e) Any opinion of the defendant's guilt or innocence, or of matters relating to the merits of a case.

#### **346.6 PRESS INFORMATION OFFICER (P.I.O.)**

The Chief of Police shall designate a minimum of one sworn employee to act as the Department's P.I.O.

##### **346.6.1 PROCEDURES**

When any incident develops or is recognized to be of such magnitude or of sufficient interest that the task of responding to media inquiries would be distracting, the officer in charge of the incident may summon the assistance of the Department's or City's P.I.O.

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- (a) When such a need is recognized, the supervising officer shall prepare a press release on FPD Form 693 which will be delivered to the Department's, or the City's P.I.O.
- (b) At the time the Department's P.I.O. is summoned, all personnel shall be informed to direct any inquiries from the media to that P.I.O.
- (c) When the requirement for such assistance for media relations becomes apparent, the Watch Commander or Incident Commander may refer all subsequent media inquiries to the Department's or the City's P.I.O.
- (d) Situational changes of potential public interest may be reported to the media using the guidelines of 212.32 and the format suggested on FPD Form 693.
- (e) The Department or City's P.I.O. shall only release information as authorized by the Chief of Police, a Division Commander or in their absence, the Incident Commander.
- (f) The Department representative releasing information to the press shall ensure that a copy of the press release issued is incorporated with the case file and no other copy need be retained.
- (g) When the Community Services Sergeant is summoned to perform under the guidelines of this section, but is unavailable, the following personnel will be the only Department members authorized to disseminate information to the media:
  - 1. Chief of Police
  - 2. Division Commander
  - 3. Professional Standards Bureau Manager
  - 4. Watch Commander
  - 5. Investigation Supervisor
  - 6. Detective Handling the Case

The City of Fullerton employs a P.I.O. The City's P.I.O. has many media contacts, and understands and anticipates probable reactions and needs the media may have in response to local incidents. When possible, all newsworthy events should be reviewed with the City's P.I.O. who will assist in preparing press releases and interacting with the media.

#### **346.7 FULLERTON POLICE DEPARTMENT PRESS RELEASE FORM**

The Department Press Release Form (FPD Form 693) was created to ensure that standardized information is released to the news media. The form will also provide timely information for Department personnel.

##### **346.7.1 DISCRETION IN RELEASING INFORMATION TO THE MEDIA**

Not all information available in a given case will be released to the media. Discretion must be used when the release of information might prejudice the case. In cases involving a death, the names of victims will be withheld until proper notification of the next-of-kin has been verified.

The Press Release Form should be used whenever a newsworthy event occurs. Examples of such events are: major criminal cases or those that involve other jurisdictions and events that may be of broad community interest (i.e., acts of nature that cause substantial damage or potentially hazardous conditions).

##### **346.7.2 RADIO AND TELEVISION STATIONS**

Release of information to radio and television representatives could result in live interviews and therefore should be handled by the Department's or the City's P.I.O. However, the Chief

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of Police, a Division Commander, or their designate may provide information to radio and television representatives when appropriate.

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## Court Appearance And Subpoenas

### 348.1 PURPOSE AND SCOPE

This procedure has been established to provide for the acceptance of subpoenas and to ensure that employees appear when subpoenaed, or are available to appear in court when requested and present a professional appearance.

#### 348.1.1 DEFINITIONS

**On-Call** - When an employee has appeared in court, or is at the time on-duty, and has been told by a member of the court that he/she is free to leave the court or return to duty, subject to being available by phone or pager if called back.

**Standby** - When an employee receives a subpoena of a type which allows him or her to not appear in court, but remain available by phone or pager so that he or she may be directed to appear in court within a reasonable amount of time.

**Trailing Status** - When an employee remains on standby status for additional court sessions until notified otherwise.

**Mandatory Appearance** - Subpoenas marked as mandatory appearance require an employee's physical appearance in the specified court. Failure to timely appear in the specified court, either intentionally or by negligence, may result in disciplinary action.

### 348.2 COURT SUBPOENAS

Employees who receive subpoenas related to their employment with this department are subject to the provisions of this policy. Employees should be aware that their compliance is mandatory on all cases for which they have been properly subpoenaed, or properly notified. This policy applies to civil and criminal subpoenas. Employees are expected to cooperate with the prosecution to ensure the successful conclusion of a case.

#### 348.2.1 SERVICE OF SUBPOENA

Service of a subpoena requiring the appearance of any department employee in connection with a matter arising out of the employee's course and scope of official duties may be accomplished by personal service on the employee or by delivery of two copies of the subpoena on the employee's supervisor or other authorized departmental agent (Government Code § 68097.1 and Penal Code § 1328(c)). Subpoena service is also acceptable by courier or court liaison from the court to this department and through electronic mail, computer modem, facsimile, or other authorized electronic means.

#### 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

After an employee opens an automated subpoena through his/her electronic mail he/she shall accept the subpoena by clicking on the appropriate hyperlink. If an employee receives a hard-copy subpoena, he/she shall sign his/her name on one of the copies and return it to the supervisor issuing the subpoena. The subpoena shall be returned to the subpoena

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clerk. Once an employee has accepted a subpoena, it becomes their responsibility to be on standby/on-call or appear as directed.

Subpoenas received via email through Orange County Integrated Law & Justice Committee contains a hyperlink that says, "*Clicking here confirms my appearance unless specifically excused by the DA's office or the Court.*" Employees are **required** to click on this link to accept the subpoena even if you have a scheduled vacation or other scheduling conflict. (See section 348.2.4 for requests for non-appearance)

#### **348.2.4 REFUSAL OF SUBPOENA**

Valid reason for not accepting subpoenas includes training, illness, and vacations, which are scheduled and approved, before receipt of the subpoena. If an employee believes he/she has a valid reason to refuse a subpoena, the subpoena shall be submitted with a "Request for Non-Appearance on Subpoena," FPD form 807, to his/her immediate supervisor. If the request is approved it will be returned to the Subpoena Clerk for court notification. Regular scheduled days off are not valid reasons for refusing the subpoena or missing court.

#### **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 Fullerton Police Department shall comply with the requirements of the subpoena. Employees receiving these subpoenas are not compensated for their appearance and arrangements for time off shall be coordinated through their immediate supervisor.

#### **348.2.7 FAILURE TO APPEAR**

Any employee who fails to comply with the terms of any valid and properly served subpoena may be subject to discipline as well as court imposed civil and/or criminal sanctions.

#### **348.3 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.



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#### **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.

- (a) Upon receipt of a subpoena, the officer shall immediately complete the upper section of FPD Form 316.3.
- (b) The officer will submit a copy of this part of the form in to his immediate supervisor to assure that proper scheduling is completed.
- (c) When the officer appears on the matter, he/she shall immediately notify the court clerk of his/her arrival.
- (d) If the officer uses his/her personal vehicle, the mileage traveled shall be entered in the space provided.
  1. If the appearance is canceled or postponed, the officer shall immediately notify a supervisor so that processing of the form may be discontinued and so any necessary scheduling changes may be promptly made.
  2. As soon as practical, after any court appearance, the officer shall complete the center section of FPD Form 316.3 and submit it to his/her Watch Commander or a supervisor.
  3. The Department will reimburse the officer for necessary expenses if receipts accompany the form.
  4. If an officer uses his/her own transportation, he/she will be reimbursed for mileage as reported on FPD Form 316.3.

#### **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 who seeks to subpoena an officer must deposit the statutory fee of \$150 (Government Code § 68097.2) to the City Treasurer 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.

#### **348.4.1 OVERTIME PAY REQUESTS**

Only one FPD Form 316.3 needs to be submitted to cover all appearances within a pay period. A separate 316.1 form must be submitted, however, for each day on which the officer made an overtime appearance.

#### **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.

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#### **348.5.1 PREPARATION FOR TESTIMONY**

Before the date of testifying, the subpoenaed officer shall request a copy of relevant reports and become familiar with their content in order to be prepared for court.

#### **348.5.2 COURTROOM ATTIRE**

Employees shall dress in uniform or business attire. Suitable business attire for men would consist of a coat, tie, and dress pants. Suitable business attire for female employees would consist of a dress jacket, dress blouse, and skirt or slacks.

#### **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, and in any way may relate to his/her scope of employment with the City of Fullerton, 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.

#### **348.8 COURT DISPOSITION NOTIFICATIONS**

Court disposition notifications will be handled via access to the City server and Department emails that will be directed to the employee's work email address. The Subpoena Clerk may be directly contacted during normal business hours, if access to the City server and emails is not possible.

##### **348.8.1 DAILY CALENDAR**

The daily calendar is in PDF format and is accessible on S:\CommonSubpoena Calendar\Year\Month. Daily calendars will be saved by the appearance date. IE "020111" is February 1, 2011.

The calendar will contain daily notes regarding the court case IE: officer to court, case trailed, case continued, etc. Department personnel will have the ability to print out copies of the daily calendar to provide with their overtime cards for verification.

##### **348.8.2 TRAILED OR CANCELED SUBPOENAS**

Department personnel will now receive emails on all trailed and canceled subpoenas like they currently do for new subpoenas.

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#### **348.9 TESTIMONY OFFICIALLY DISALLOWED - NOTIFICATIONS**

The purpose of this policy is to provide the employee and Department with notification guidelines when an official governmental agency (IE: District Attorney) serves written or verbal notice to either party that testimony or statements shall be disallowed based on ethical or credibility uncertainty of a specific employee in the performance of their duty.

##### **348.9.1 DEPARTMENT SERVED NOTIFICATION**

When the Department is served official notice by the District Attorney, Court of Law or other Governmental agency that a named employee's testimony or statements will be disallowed based on ethical or credibility uncertainty the Department shall promptly notify the employee.

##### **348.9.2 EMPLOYEE SERVED NOTIFICATION**

Any employee who has received official or informal notification by the District Attorney, Court of Law or other Governmental agency that their testimony or statements will be disallowed based on ethical or credibility uncertainty, that employee shall notify their immediate supervisor as soon as practicable.

- (a) That Supervisor shall notify their Division Commander, through the proper chain of command.

##### **348.9.3 INVESTIGATE THE CLAIM**

Once notification has been made, the Chief of Police will order an investigation by the Professional Standards Bureau to verify the claim and take appropriate action. If the investigation proves that the censure against the employee was inappropriate, the Department will petition the notifying agency to have the censure lifted and restore the employee's creditability.

## Reserve Officers

### 350.1 PURPOSE AND SCOPE

The Fullerton 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.

#### 350.1.1 RESERVE OFFICER LEVEL ONE DESIGNATION

Pursuant to Penal Code Sections 830.6(a)(2) and 832.6(a)(1) each Reserve Unit member who, on or after January 1, 1981, has been deputized or appointed as a Designated Level One Reserve Officer shall have the full powers and duties of a police officer as provided by Penal Code Section 830.1, subject to such restrictions as may be imposed by the Chief of Police.

Pursuant to Penal code Section 832.6(b), each Reserve Unit member who was issued a Level One Reserve Officer certificate prior to January 1, 1981, and who is determined by the Chief of Police to be qualified to perform general law enforcement duties, shall have the full powers and duties of a peace officer as provided by Penal Code Section 830.1, subject to such restrictions as may be imposed by the Chief of Police.

*Summary of Council Resolution 9878, dated January 16, 2007*

#### 350.1.2 MASTER RESERVE OFFICERS

Master Reserve Officers are selected Reserve Officers with unique expertise in specific areas of Law Enforcement. In addition to meeting all the requirements for Reserve Officer Level One, as set forth in policy and P.O.S.T. training requirements, the Master Reserve Officer may be given special assignments related to a specific project or series of tasks. These special assignments shall be authorized by the Chief of Police or his designate. While working specifically on this special assignment, the Master Reserve Officer will be compensated on an hourly rate under the classification of Consultant Specialist, as further defined under section 350.2.3. The Master Reserve Officer is responsible to report any hours worked as a Consultant Specialist or as a Master Reserve Officer to the Reserve Coordinator. All hours shall count toward the minimum monthly hours as set forth in section 350.3.

### 350.2 SELECTION & APPOINTMENT OF POLICE RESERVE OFFICERS

The Fullerton 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.

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#### **350.2.2 APPOINTMENT**

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

#### **350.2.3 COMPENSATION FOR POLICE RESERVE OFFICERS**

Compensation for reserve officers is provided as follows:

- (a) All reserve officer appointees are issued two sets of uniforms and all designated attire and safety equipment. Replacement uniforms deemed inappropriate for service by a supervisor or Training Officer will be replaced as arranged by the Training Officer in the Professional Standards Bureau. All property issued to the reserve officer shall be returned to the Department upon termination or resignation.
- (b) Reserve Officers may receive a monthly stipend as set by City Council Resolution if they meet the following qualifications:
  - 1. Must have completed a P.O.S.T certified Police Academy.
  - 2. Must have a Level One Reserve status.
  - 3. Must have completed the Fullerton Field Officer Training (FTO).
  - 4. Must have been granted "Solo" status by the Reserve Coordinator.
- (c) All stipends are not pre-taxed by the City of Fullerton. Each recipient will have individual responsibility to file the appropriate State and Federal tax forms related to income they earned during the taxable year. No other compensations or benefit entitlements other than required by law are to be implied by this stipend.
- (d) "Good Standing" defined:
  - 1. Reserve Officers who have attended mandated meetings and met ongoing training mandates as required by P.O.S.T. and Department training requirements.
  - 2. Are working the required 16 hours monthly, or are reasonably likely to complete the required 192 hours for the calendar year.
  - 3. Determination of Good Standing rests with the Reserve Coordinator. Any negative Standing determination shall be justified in writing. Written notification to the individual Reserve Officer and Patrol Division Commander must be within 10 days of the decision. Once final, the written notification will be placed in the Reserve Officer's Personnel file and retained in accordance with the City Retention Schedule.
  - 4. Reserve Officers may appeal a negative Standing in accordance with the Department Grievance Procedure (Policy 1006).
- (e) Master Reserves who are Consultant Specialists and currently receiving compensation are exempt from receiving this stipend.

#### **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

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Coordinator should consult the Department of Human Resources prior to an employee serving in a reserve or volunteer capacity (29 C.F.R. 553.30).

#### **350.2.5 CONSULTANT SPECIALIST COMPENSATION**

Only Master Reserve Officers working specifically as a Consultant Specialist shall receive an hour-per-hour salary compensation. Hours worked on that authorized project shall be documented on a Requests for Payment (form 316.1). The unit supervisor shall verify the hours worked and forwarded that payment request to the Professional Standards Bureau Manager for payment authorization and appropriate time-card input. Consultant Specialist pay is a fixed hourly pay without any other benefits or overtime considerations. Hours worked are limited to a maximum of 10 hours per week. Any deviation from the maximum number of hours worked shall only be authorized by the Chief of Police or his designate.

#### **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 Uniform 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.

##### **350.3.1 POLICY COMPLIANCE**

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

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

##### **350.3.2 RESERVE OFFICER ASSIGNMENTS**

All reserve officers will be assigned to duties by the Reserve Coordinator or his/her designee.

##### **350.3.3 RESERVE COORDINATOR**

The Chief of Police shall delegate the responsibility for administering the Reserve Officer Program to a Reserve Coordinator.

The Reserve Coordinator shall have the responsibility of, but not be limited to:

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

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#### **350.4 FIELD TRAINING**

Penal Code § 832.6(a)(1) requires Level I reserve officers, to complete the same level of training courses required of regularly employed police officers. Field training shall be in accordance with current Police Officer Standards of Training (P.O.S.T) guidelines.

##### **350.4.1 TRAINING OFFICERS**

Upon completion of the Academy, or upon appointment to the Department, Reserve Officers will normally be assigned to a Primary Training Officer. The Primary Training Officer will be selected from members of the F.T.O. Committee. The Reserve Officer will be assigned to work with his/her Primary Training Officer whenever possible during the first phase of F.T.O. training. When this is not possible, the trainee may work with another F.T.O., a qualified Reserve Training Officer (R.T.O.), or, with Watch Commander or Reserve Officer Coordinator approval, a qualified Senior Police Officer. Any training of a Reserve Officer in Phase I training will be overseen by the Reserve Officers' Primary Training Officer, who will assure that quality training is maintained at all times.

##### **350.4.2 FIELD TRAINING MANUAL**

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

##### **350.4.3 COMPLETION OF THE FORMAL TRAINING PROCESS**

When a reserve officer has satisfactorily completed formal field training, he/she will have had a minimum of 400 hours of on-duty field training. At the completion of training, based upon the reserve officer's evaluations, plus input from the training officer(s), the Reserve Coordinator shall decide if the reserve officer has satisfactorily completed his/her formal field training. If the reserve officer has progressed satisfactorily, he/she will then graduate from the formal field training process. If his/her progress is not satisfactory, the Reserve Coordinator will decide upon the appropriate action to be taken.

#### **350.5 SUPERVISION OF RESERVE OFFICERS**

Penal Code Section 832.6(a) (1) indicates that a Level I Reserve Officer has the same supervision requirements as a regular, full time peace officer. It is the policy of this Department that, while on duty, a Reserve Officer will be under the immediate supervision of an FTO or RTO. These provisions shall continue to apply unless special authorization is received which relieves the "Immediate Supervision" requirement.

##### **350.5.1 SPECIAL AUTHORIZATION REQUIREMENTS**

Level I Reserve Officers who have completed their formal phase training, with authorization of the Reserve Officer Coordinator and on approval of the Division Commander, will be permanently relieved of the "immediate supervision" requirement described under Policy Manual § 350.5. Reserve Officers relieved of the "immediate supervision" requirement may function in the same manner as regular full time officers of this agency while on duty. Reserve Officers will have a letter of authorization placed in their personnel files.

The Division Commander, the Reserve Officer Coordinator or the Watch Commander may assign a certified Level I Reserve Officer to function without immediate supervision under the authority of Penal Code Section 832.6(a) (1) for specific purposes and limited duration. This specific exemption may be applied to all Level I Reserve Officers who have not been

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relieved of the immediate supervision requirement of Policy Manual § 516.5 even if their formal training has not yet been completed.

#### **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 Uniform Division Commander.

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 assignments.

##### **350.6.2 CONCEALED FIREARMS**

Qualified Level 1 Reserve Officers are authorized to carry a concealed weapon off-duty pursuant to Penal Code § 832.6(b).



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Any reserve officer who is permitted to carry a firearm, other than their 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.

#### **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 once a month, or 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 Fullerton 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.

## Handcuff Policy

### 354.1 PURPOSE AND SCOPE

This procedure provides guidelines for handling situations involving handcuffing during detentions and arrests. This policy is also applicable to Flexcuffs, which will be considered synonymous with handcuffs for purposes of this policy.

### 354.2 HANDCUFFING POLICY

Although recommended for most arrest situations, handcuffing is a discretionary procedure and not an absolute rule of the Department. When deciding whether to handcuff an arrestee, officers should carefully balance officer safety concerns with factors including, but not limited to the following:

- The circumstances leading to the arrest.
- The attitude and behavior of the arrested person.
- The age, sex and health of the person.
- 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.

It is not the intent of the Department to dissuade officers from handcuffing all persons they believe warrant that degree of restraint, nor is it the intent of this policy to create the atmosphere that in order to avoid risk, an officer should handcuff all persons regardless of the circumstances. In most situations handcuffs should be applied with the hands behind the person. Handcuffs should be removed as soon as the arrested person is safely confined within the jail.

#### 354.2.1 IMPROPER USE OF HANDCUFFS

Handcuffing is never done to punish, to display authority, or as a show of force. Persons are handcuffed only to restrain their hands to ensure officer safety. When practical, handcuffs shall be double locked to prevent tightening which may cause undue discomfort or injury to the hands or wrists.

#### 354.2.2 JUVENILES

Juveniles 14-years of age or older may be handcuffed when the act committed is of a felonious nature or when their acts have amounted to crimes where the officer has a reasonable suspicion the suspect may have a desire to escape, injure themselves, injure the officer, or destroy property.

Juveniles under 14-years of age generally will not be handcuffed unless their acts have amounted to a dangerous felony or when they are of a state of mind which suggests a reasonable probability of their desire to escape, injure themselves, the officer, or to destroy property.

#### 354.2.3 HANDCUFFING OF DETAINEES

Situations may arise where it may be reasonable to handcuff an individual who may, after subsequent investigation, be released prior to arrest. Such a situation is considered a

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detention, rather than an actual arrest. Unless arrested, the use of handcuffs on detainees should continue for only as long as is objectively reasonable to assure the safety of officers and others. Officers should continuously weigh the safety interests at hand against the intrusion upon the detainee when deciding to remove handcuffs from a detainee.

When an individual is handcuffed and released without an arrest, a written report of the incident shall be made to document the details of the detention and need for use of handcuffs.

#### **354.2.4 HANDCUFFING OF PREGNANT ARRESTEES**

No arrestee who is in labor shall be handcuffed or restrained by the wrists, ankles or both unless it is objectively reasonable for the safety of the arrestee, officers or others (Penal Code § 6030).

## Megan's Law

### 356.1 PURPOSE AND SCOPE

The purpose of this policy is to establish a procedure for the dissemination of information regarding certain registered sex offenders under California's Megan's Law. (Penal Code §§ 290 and 290.4). It is the policy of this department to facilitate public access to information allowed by legislation on registered sex offenders.

### 356.2 DEPARTMENTAL DISSEMINATION OF INFORMATION

Whenever this department determines that it is necessary to provide information to the public regarding a person required to register as a sex offender pursuant to Penal Code § 290 in order to ensure the public safety, such information may only be released by means determined by the Chief of Police to be appropriate (Penal Code § 290.45(a)(1)).

Officers shall obtain approval from a supervisor prior to the public release of any information regarding a registered sex offender. Under exigent circumstances, an officer may release the information without prior supervisory approval, however, a supervisor shall be notified of the information release as soon thereafter as is practical.

Included with all public disclosures of information about any registered sex offender will be a statement that the purpose of the release is to allow members of the public to protect themselves and their children from sex offenders (Penal Code § 290.45(a)(2)).

#### 356.2.1 LIMITATIONS ON EXTENDED RELEASE

Individuals and entities receiving information regarding registered sex offenders may only be authorized to disclose such information to additional persons if the Department determines the appropriate scope and that such disclosure will enhance the public safety. The Department may not authorize any disclosure of such information by its placement on a non-departmental Internet Web site (Penal Code § 290.45(c)(1)).

### 356.3 RELEASE OF INFORMATION VIA THE INTERNET

Information about a specific offender may be publicly disclosed by way of the department Internet Web site only when the Department determines that such disclosure is necessary to ensure the public safety (Penal Code § 290.46(g)).

#### 356.3.1 INFORMATION PROHIBITED FROM INTERNET RELEASE

The following information shall not be released over the department Internet Web site (Penal Code § 290.46(a)):

- Any information identifying the victim.
- The name and address of the offender's employer.
- All criminal history of the offender, other than the specific crimes for which the person is required to register.

#### 356.3.2 INFORMATION PERMITTED FOR INTERNET RELEASE

For those offenders listed in Penal Code § 290.46(c)(2) and (d)(2), the following information may be included on the department Internet Web site:

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- (a) The offender's full name.
- (b) The offender's known aliases.
- (c) The offender's gender.
- (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 community of residence and ZIP Code in which the registrant resides or the county in which the person is registered as a transient.
- (j) Any other information which the Department deems relevant, such as:
  - 1. Description of the offender's vehicle(s) or vehicle(s) the offender is known to drive (only if the offender is currently wanted for a criminal offense).
  - 2. Type of victim targeted by the offender.
  - 3. Relevant parole or probation conditions, such as prohibiting contact with children.
  - 4. Dates of crimes resulting in current classification.
  - 5. Dates of release from confinement.
  - 6. The offender's enrollment, employment, or vocational status with any university, college, community college, or other institution of higher learning.

For those offenders listed in Penal Code § 290.46(b)(2), the address at which the offender resides may also be included on the department Internet Web site in addition to the above.

Before releasing the address of any offender, the officer shall verify that the information is correct.

#### **356.3.3 USE OF DISCLOSURE FORMS**

Whenever information regarding any sex offender is publicly disseminated, the officer shall include with the disclosure a statement that the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders. A copy of this statement shall be promptly forwarded to the Detective Bureau (Penal Code § 290.45).

The release of such information shall also be noted by entering the notification into the comment field on the offender's Supervised Release File record.

#### **356.3.4 LIMITED RELEASE WITHIN COLLEGE CAMPUS COMMUNITY**

In addition to the authority provided elsewhere within this policy, any campus police department or local agency having jurisdiction over any university, college, community college or other institution of higher learning may release the following information within the campus community regarding other registered sex offenders:

- (a) The offender's full name.
- (b) The offender's known aliases.
- (c) The offender's gender.
- (d) The offender's race.

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- (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.

The release of any information pursuant to this section shall be strictly limited to that which is intended to reach persons only within the campus community. 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)(1).

#### **356.4 PUBLIC INQUIRIES**

As a general rule information may not be given over the telephone. Members of the public may access detailed sexual offender information by way of their personal computer through the Internet at the Megan's Law Web site maintained by the Department of Justice ([www.meganslaw.ca.gov](http://www.meganslaw.ca.gov)). They may also submit a list of at least six persons directly to the Department of Justice on a designated form to inquire whether any of those persons are required to register as a sex offender and are subject to public notification (Department of Justice fees may apply) (Penal Code § 290.4(a)).

## 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

Most situations where the media show a strong interest are also of interest to the Chief of Police and the affected Division Commander. The following list of incident types is provided as a guide for notification and is not intended to be all-inclusive:

- Homicides
- Traffic accidents with fatalities
- Officer-involved shooting - on or off duty (See Policy Manual § 310.53 for special notifications)
- Significant injury or death to employee - on or off duty
- Death of a prominent Fullerton official
- Arrest of Department employee or prominent Fullerton official
- Aircraft crash with major damage and/or injury or death
- In-custody deaths
- Any other significant event

### 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 their office (if on-duty), home phone or personal communication device (cell-phone, text message or email). Voice mail or text messages should only be used when direct voice contact is not possible.

#### 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 Commander.

#### 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 Traffic Lieutenant.



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#### **358.3.4 PRESS INFORMATION OFFICER (PIO)**

If it appears the media may have a significant interest in an incident, the P.I.O. shall be called after members of Staff have been notified. The Community Relations Sergeant and the Personnel/Training Lieutenant are the Department Press Information Officers. The Community Relations Sergeant shall be notified first and then the Personnel/Training Lieutenant if the Community Relations Sergeant cannot be reached.

## 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.

#### 360.1.1 DUTY OF OFFICER TO REMAIN AT SCENE

The Coroner's Office policy does not always require a Coroner's Investigator to respond to the scene. For example, when the deceased was under physician's or hospice care, the Coroner will not normally respond. In these cases, the officer shall verify that the family has chosen and notified a funeral home to respond. The officer shall not leave the scene until the funeral home has been contacted and offered an estimated response time to take custody of the body. The officer shall contact the Coroner's Office and inform them of the following:

- Employee contacted
- Funeral Home business name and address
- Telephone number
- Date and time the funeral home expected to remove the body

This information shall also be documented in the officer's report. A supervisor must authorize the officer to leave the scene to ensure it is appropriate to leave the family and/or friends alone with the body of the deceased.

### 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.

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- (e) Known or suspected suicide.
- (f) Involving any criminal action or suspicion of a criminal act. Includes child and dependent adult negligence and abuse.
- (g) Related to or following known or suspected self-induced or criminal abortion.
- (h) Associated with a known or alleged rape or crime against nature.
- (i) Following an accident or injury (primary or contributory). Deaths known or suspected as resulting (in whole or in part) from or related to accident or injury, either old or recent.
- (j) Drowning, fire, hanging, gunshot, stabbing, cutting, starvation, exposure, alcoholism, drug addiction, strangulation or aspiration.
- (k) Accidental poisoning (food, chemical, drug, therapeutic agents).
- (l) Occupational diseases or occupational hazards.
- (m) Known or suspected contagious disease and constituting a public hazard.
- (n) All deaths in operating rooms and all deaths where a patient has not fully recovered from an anesthetic, whether in surgery, recovery room or elsewhere.
- (o) In prison or while under sentence. Includes all in-custody and 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

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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 on the appropriate form.

#### **360.2.6 SUSPECTED HOMICIDE**

If the initially assigned officer suspects that the death involves a homicide or other suspicious circumstances, the Investigations Division shall be notified to determine the possible need for a detective to respond to the scene for further immediate investigation.

#### **360.2.7 EMPLOYMENT RELATED DEATHS OR INJURIES**

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

## 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.

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## Private Persons Arrests

### 364.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the handling of private person's arrests made pursuant to Penal Code § 837.

### 364.2 ADVISING PRIVATE PERSONS OF THE ARREST PROCESS

Penal Code § 836(b) expressly mandates that all officers shall advise victims of domestic violence of the right to make a private person's arrest, including advice on how to safely execute such an arrest. In all other situations, officers should use sound discretion in determining whether or not to advise an individual of the arrest process.

- (a) When advising any individual regarding the right to make a private person's arrest, officers should refrain from encouraging or dissuading any individual from making such an arrest and should instead limit advice to the legal requirements for such an arrest as listed below.
- (b) Private individuals should be discouraged from using force to effect a private person's arrest, and absent immediate threat to their own safety or the safety of others, private individuals should be encouraged to refer matters to law enforcement officials for further investigation or arrest.

### 364.3 ARRESTS BY PRIVATE PERSONS

Penal Code § 837 provides that a private person may arrest another:

- (a) For a public offense committed or attempted in his or her presence;
- (b) When the person arrested has committed a felony, although not in his or her presence;
- (c) When a felony has been in fact committed, and he or she has reasonable cause for believing the person arrested has committed it.

Unlike peace officers, private persons may not make an arrest on suspicion that a felony has been committed - the felony must in fact have taken place.

### 364.4 OFFICER RESPONSIBILITIES

Any officer presented with a private person wishing to make an arrest must determine whether or not there is reasonable cause to believe that such an arrest would be lawful (Penal Code § 847).

- (a) Should any officer determine that there is no reasonable cause to believe that a private person's arrest is lawful, the officer should take no action to further detain or restrain the individual beyond that which reasonably appears necessary to investigate the matter, determine the lawfulness of the arrest and protect the public safety.
  - 1. Any officer who determines that a private person's arrest appears to be unlawful should promptly release the arrested individual pursuant to Penal Code § 849(b)(1). The officer must include the basis of such a determination in a related report.
  - 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.

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## Anti-Reproductive Rights Crimes Reporting

### 366.1 PURPOSE AND SCOPE

This policy shall establish a procedure for the mandated reporting of Anti-Reproductive Rights Crimes (ARRC) to the Attorney General pursuant to the Reproductive Rights Law Enforcement Act (Penal Code § 13775 et seq.).

### 366.2 DEFINITIONS

Penal Code § 423.2 provides that the following acts shall be considered Anti-Reproductive Rights Crimes (ARRC) when committed by any person, except a parent or guardian acting towards his or her minor child or ward:

- (a) By force, threat of force, or physical obstruction that is a crime of violence, intentionally injures, intimidates, interferes with, or attempts to injure, intimidate, or interfere with any person or entity because that person or entity is a reproductive health services client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider, or assistant
- (b) By non-violent physical obstruction, intentionally injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with, any person or entity because that person or entity is a reproductive health services client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider or assistant
- (c) Intentionally damages or destroys the property of a person, entity, or facility, or attempts to do so, because the person, entity, or facility is a reproductive health services client, provider, assistant, or facility

### 366.3 REPORTING REQUIREMENTS TO THE ATTORNEY GENERAL

- (a) Upon the receipt of the report of an ARRC, it shall be the responsibility of the employee taking such a report to also complete an ARRC Data Collection Worksheet (BCIA 8371) in accordance with the instructions contained on such forms.
- (b) The ARRC Data Collection Worksheet shall be processed with all related reports and forwarded to the Investigation Division Commander.
- (c) By the tenth day of each month, it shall be the responsibility of the Investigation Division Commander 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).



## Temporary Housing of Animals

### **367.1 PURPOSE AND SCOPE**

Animals may be housed at the Police Facility only on a temporary basis, and under limited conditions.

### **367.2 LOCATION OF CONFINEMENT**

Animals shall be housed within the confines of the fenced area to the north of the jail facility in the rear parking area. It is the responsibility of the officer who is placing the animal in the confined area to notify the Watch Commander of the circumstances.

Officers shall use discretion in relation to the size of the animal, the approximate duration of confinement, and the animal's temperament before deciding to temporarily house the animal at the police facility.

Whenever any animal is housed at the police facility, it shall be the responsibility of the confining officer to arrange for the removal of the animal at the earliest possible opportunity. When those arrangements become difficult, the officer is to confer with the on-duty Watch Commander to decide the appropriate course of action.

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## Limited English Proficiency Services

### 368.1 PURPOSE AND SCOPE

Language barriers can sometimes inhibit or even prohibit individuals with limited English proficiency (LEP) from gaining meaningful access to, or an understanding of important rights, obligations and services. It is therefore the policy of this department to take all reasonable steps to ensure timely and equal access to all individuals, regardless of national origin or primary language (Title VI of the Civil Rights Act of 1964, § 601, 42 USC 2000d).

#### 368.1.1 DEFINITIONS

Definitions related to this policy include:

**Authorized interpreter** - Any employee who is bilingual and has successfully completed department-prescribed interpreter training and is authorized to act as an interpreter or translator.

**Bilingual** - The ability to communicate in two languages fluently, including the ability to communicate technical and law enforcement terminology. Bilingual includes a variety of skill levels. For example, some bilingual individuals may be fluent enough to engage in direct communications in a non-English language but insufficiently fluent to interpret or translate from one language into another. For example, a bilingual individual, depending on his/her skill level, could be utilized to communicate fluently in a non-English language but not to interpret between two languages if he/she does not possess the specialized skills necessary to interpret between two languages effectively. In order to be utilized to interpret or translate from one language into another, an individual must possess the skill, training and demonstrated competence to do so. For purposes of this policy, employees, in order to be identified as bilingual, must initially and periodically demonstrate, through a procedure to be established by the Department, their level of skill and competence such that the Department is able to determine the purposes for which an employee's language skills may be used.

**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)** - Designates individuals whose primary language is not English and who have a limited ability to read, write, speak or understand English. LEP 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.

**Translation** - The replacement of written text from one language (source language) into an equivalent written text (target language).

### 368.2 FOUR FACTOR ANALYSIS

Since there are potentially hundreds of languages department personnel could encounter, the Department will utilize the four-factor analysis outlined in the Department of Justice *LEP Guidance to Federal Financial Assistance Recipients* available at the DOJ [website](#) in determining which measures will provide reasonable and meaningful access to

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### *Limited English Proficiency Services*

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various rights, obligations, services and programs to everyone. It is recognized that law enforcement contacts and circumstances will vary considerably. This analysis therefore, must remain flexible and requires an ongoing balance of the following four factors:

- (a) The number or proportion of LEP individuals eligible to be served or likely to be encountered by department personnel or who may benefit from programs or services within the Department's jurisdiction or a particular geographic area.
- (b) The frequency with which LEP individuals are likely to come in contact with department personnel, 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.

As indicated above, the intent of this analysis is to provide a balance that reasonably ensures meaningful access by LEP individuals to critical services while not imposing undue burdens on the Department its personnel.

While this 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, the above analysis will be utilized to determine the availability and level of assistance provided to any LEP individual or group.

#### **368.2.1 IDENTIFICATION OF LEP INDIVIDUAL'S LANGUAGE**

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

#### **368.3 TYPES OF LEP ASSISTANCE AVAILABLE**

Depending on the balance of the above four factors, this department will make every reasonable effort to provide meaningful and timely assistance to LEP individuals through a variety of services, where available. LEP individuals may elect to accept interpreter services offered by the Department at no cost or choose to provide their own interpreter services at their own expense. Department personnel should document in any related report whether the LEP individual elected to use interpreter services provided by the Department or some other source. Department-provided interpreter services may include, but are not limited to, the assistance methods described in this section.

##### **368.3.1 BILINGUAL STAFF**

Employees utilized for LEP services need not be certified as interpreters, but must have demonstrated, through established department procedures, a level of competence to ascertain whether the employee's language skills are best suited to monolingual communications, interpretation, translation, or all or none of these functions. All employees used for communication with LEP individuals must demonstrate knowledge of the ethical issues involved when functioning as a language conduit. In addition, employees who serve as interpreters and/or translators must have demonstrated competence in both English and the non-English language involved and knowledge of the functions of an interpreter; including but not limited to the ethics requirements of interpretation. When bilingual employees of this department are not available, employees from other city departments who have the requisite training may be requested.

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#### **368.3.2 WRITTEN FORMS AND GUIDELINES**

This department will determine the most frequently used and critical forms and guidelines and translate these documents into the languages most likely to be requested. The Department will arrange to make these translated forms available to departmental personnel and other appropriate individuals.

#### **368.3.3 AUDIO RECORDINGS**

From time to time, the Department may develop audio recordings of important information needed by LEP individuals for broadcast in a language most likely to be understood by involved LEP individuals.

#### **368.3.4 TELEPHONE INTERPRETER SERVICES**

The Watch Commander and Communications Manager will maintain a list of qualified interpreter services which, upon approval of a supervisor can be contacted to assist LEP individuals. Such services shall be available to, among others, department personnel who utilize official cellular telephones.

#### **368.3.5 COMMUNITY VOLUNTEERS AND OTHER SOURCES OF INTERPRETATION**

Where competent bilingual departmental personnel or other City-certified staff are unavailable to assist, responsible members of the community who have demonstrated competence in either monolingual (direct) communication and/or in interpretation and translation (as noted in above) may be called upon to assist in communication efforts. Sources for these individuals may include neighboring police departments, university languages and linguistics departments, local businesses, banks, churches, neighborhood leaders and school officials. Department personnel should ensure that community members are able to provide unbiased assistance. The nature of the contact and relationship between the LEP individual and the individual offering services must be carefully considered (e.g., victim/suspect).

Except for exigent or very informal and non-confrontational circumstances, the use of an LEP individual's bilingual friends or family members, particularly children, are generally not recommended and department personnel shall make case-by-case determinations on the appropriateness of using such individuals (for further guidance see: Section V(3) of the DOJ Final Guidance available at the DOJ [website](#)).

#### **368.4 LEP CONTACT SITUATIONS AND REPORTING**

While all law enforcement contacts, services and individual rights are important, this department will utilize the four-factor analysis to prioritize language services so that they may be targeted where they are most needed.

Whenever any member of this department is required to complete a report or when other documentation and interpretation or translation services are provided to any involved LEP individual, such services should be noted in the related report.

#### **368.4.1 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE**

In order to provide LEP individuals with meaningful access to police services when they are victims of, or witnesses to, alleged criminal activity or other emergencies, this department has designated its 9-1-1 lines as its top priority for language services. Department personnel will make every reasonable effort to promptly accommodate such LEP individuals utilizing 9-1-1 lines through any or all of the above resources.

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While 9-1-1 calls shall receive top priority, it is also important that reasonable efforts be made to accommodate LEP individuals seeking more routine access to services and information from this department by utilizing all the methods listed in § 368.3 above.

#### **368.4.2 EMERGENCY CALLS TO 9-1-1**

When a 9-1-1 call-taker receives a call and determines that the caller is an LEP individual the call-taker should quickly determine whether or not sufficient information can be obtained to initiate an appropriate emergency response. If language assistance is still needed and the language is known, the call-taker should immediately transfer the LEP caller to an available authorized interpreter to handle the call.

If an appropriate authorized interpreter is not available, the call-taker will promptly contact the contracted telephonic interpretation service directly for assistance in completing the call. Dispatchers will make every reasonable effort to dispatch a bilingual officer to the assignment, if available.

The Fullerton Police Department will take reasonable steps and will work with the Department of Human Resources to hire and develop in-house language capacity in the Communications Center by hiring qualified personnel with specific language skills.

#### **368.4.3 FIELD ENFORCEMENT AND INVESTIGATIONS**

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 which may involve LEP individuals. The scope and nature of these activities and contacts will inevitably vary. Department personnel must assess each situation to determine the need and availability for translation services to all involved LEP individuals and utilize the methods outlined in § 368.3 to provide appropriate language assistance.

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

#### **368.4.4 INVESTIGATIVE INTERVIEWS**

In any situation where the translation of an interview may contain information that might be used in a criminal trial, it is important to take certain steps to improve the chances of admissibility. 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.

Any person selected as an interpreter and/or translator must have demonstrated competence in both English and the non-English language involved and knowledge of the functions of an interpreter that allows for correct and effective translation, and should not be a person with an interest in the case. The person providing interpretation or translation services may be required to establish the accuracy and trustworthiness of the interpretation or translation to the court.

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#### **368.4.5 CUSTODIAL INTERROGATIONS AND BOOKINGS**

In an effort to ensure the rights of LEP individuals are protected during arrest and custodial interrogation, this department places a high priority on providing competent interpretation during such situations. It is further recognized that miscommunication during custodial interrogations may have a substantial impact on the evidence presented in any related criminal prosecution. As such, department personnel providing interpretation services or translated forms in these situations will have demonstrated competence in interpretation/translation and make every reasonable effort to accurately interpret/translate all communications with LEP individuals.

In order to ensure that translations during criminal investigations are documented accurately and admissible as evidence, audio recordings of interrogations, victim interviews and witness interviews should be used whenever reasonably possible.

Employees providing interpretation or translation services shall also be aware of the inherent communication impediments to gathering information from the LEP individual throughout the booking process or any other situation in which an LEP individual is within the control of department personnel. Medical screening questions are commonly used to elicit information on an individual's medical needs, suicidal inclinations, presence of contagious diseases, potential illness, resulting symptoms upon withdrawal from certain medications, or the need to segregate the arrestee from other prisoners, therefore it is important for members of this department to make every reasonable effort to provide effective language services in these situations.

#### **368.4.6 COMPLAINTS**

The Department shall ensure access to LEP persons who wish to file a complaint regarding the discharge of department duties. The Department may do so by providing interpretation assistance or translated forms to such individuals. If the Department responds to complaints filed by LEP individuals, the Department shall attempt to communicate its response in an accessible manner.

#### **368.4.7 COMMUNITY OUTREACH**

Community outreach programs and other such services offered by this department have become increasingly recognized as important to the ultimate success of more traditional law enforcement duties. As such, this department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services to LEP individuals and groups.

#### **368.5 TRAINING**

In an effort to ensure that all employees in public contact positions (or having contact with those in custody) are properly trained, the Department will provide periodic training to personnel about departmental LEP policies and procedures, including how to access department-authorized, telephonic and in-person interpreters and other available resources. LEP training will be provided for new employees and refresher training will be provided at least once every two years thereafter.

#### **368.6 SUPPLEMENTAL MATERIALS PROVIDED TO DEPARTMENT EMPLOYEES**

The following materials will be made available to employees to assist in providing access and service to LEP individuals:

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- (a) A list of departmental bilingual employees, languages spoken and contact and shift information
- (b) A list of department-certified interpretation services, bilingual interpreters, languages spoken and contact and availability information
- (c) The telephone number and access code of telephonic interpretation services
- (d) Language identification cards
- (e) Translated *Miranda* warning cards and other frequently used documents
- (f) Audio recordings/warnings that are developed in non-English languages

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## Hearing Impaired/Disabled Communications

### 370.1 PURPOSE AND SCOPE

Individuals who suffer from deafness, hearing impairment, blindness, impaired vision, mental or other disabilities may encounter difficulties in gaining meaningful access to, or an understanding of important rights, obligations and services. In accordance with the Americans with Disabilities Act (ADA) and Civil Code § 54.1, it is therefore the policy of this department to take all reasonable steps to accommodate such individuals in any law enforcement contact.

### 370.2 FACTORS TO CONSIDER

Because the nature of any law enforcement contact may vary substantially from one situation to the next, employees of this department should consider all information reasonably available to them when determining how to communicate with an individual suffering from any disability. These factors may include, but are not limited to:

- (a) The extent to which a disability is obvious or otherwise made known to the involved employee. Impaired or disabled individuals may be reluctant to acknowledge their condition and may even feign a complete understanding of a communication despite actual confusion.
- (b) The nature of the disability (e.g., total deafness or blindness vs. impairment)
- (c) The nature of the law enforcement contact (e.g., emergency vs. non-emergency, custodial vs. consensual contact, etc.)
- (d) Availability of resources to aid in communication

When considering these and other available information, the involved employee(s) should carefully balance all factors in an effort to reasonably ensure meaningful access by individuals suffering from apparent disabilities to critical services while not imposing undue burdens on the Department or its officers.

### 370.2.1 INITIAL AND IMMEDIATE CONSIDERATIONS

Recognizing that various law enforcement encounters may be potentially volatile and/or emotionally charged, department employees should remain alert to the possibility of communication problems and exercise special care in the use of all gestures, and verbal and written communication in an effort to minimize initial confusion and misunderstanding when dealing with any individual(s) with known or suspected disabilities or communication impairments.

### 370.3 TYPES OF ASSISTANCE AVAILABLE

Depending on the balance of the factors available for consideration at the time, this department will make every reasonable effort to provide meaningful and timely assistance to disabled individuals through a variety of services, where available. Disabled individuals may elect to accept such assistance at no cost, choose to provide their own communication services at their own expense or any combination thereof. In any situation, the individual's expressed choice of communication method shall be given primary consideration and



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honored unless the employee can adequately demonstrate that another effective method of communication exists under the circumstances.

Officers should document the type of communication utilized in any related report and whether a disabled or impaired individual elected to use services provided by the Department or some other identified source. Department provided services may include, but are not limited to the following:

#### **370.3.1 FIELD RESOURCES**

Individual officers and employees are encouraged to utilize resources immediately available to them in any contact with a known or suspected disabled or impaired person. Examples of this would include such simple methods as:

- (a) Hand gestures or written communications exchanged between the employee and a deaf or hearing impaired individual
- (b) Facing an individual utilizing lip reading and speaking slowly and clearly
- (c) Slowly and clearly speaking or reading simple terms to any visually or mentally impaired individual

#### **370.3.2 AUDIO RECORDINGS AND ENLARGED PRINT**

From time to time, the Department may develop audio recordings of important information needed by blind or visually impaired individuals. In the absence of such audio recordings, employees may elect to read aloud a Department form or document such as a citizen complaint form to a visually impaired individual or utilize a photocopier to enlarge printed forms for a visually impaired individual.

#### **370.3.3 TELEPHONE INTERPRETER SERVICES**

The Watch Commander and Communications Manager will maintain a list of qualified interpreter services to be contacted at department expense to assist deaf or hearing impaired individuals upon approval of a supervisor. When utilized, notification to such interpreters shall be made at the earliest reasonable opportunity and the interpreter should be available to respond within a reasonable time (generally not to exceed three hours).

#### **370.3.4 TTY AND RELAY SERVICES**

Individuals who are deaf or hearing impaired must be given the opportunity to use available text telephones (TTY or TDD). All calls placed by such individuals through such services shall be accepted by this department.

#### **370.3.5 COMMUNITY VOLUNTEERS**

Depending on the circumstances, location and availability, responsible members of the community may be available to provide qualified interpreter services, such as those who are proficient in American Sign Language (ASL). Sources for these individuals may include local businesses, banks, churches, neighborhood leaders and school officials. In addition to such sources developed by individual officers, the Department will attempt to maintain and update a list of qualified community volunteers who may be available to respond within a reasonable time.

#### **370.3.6 FAMILY AND FRIENDS OF DISABLED OR IMPAIRED INDIVIDUAL**

While family and friends of a disabled or impaired individual may frequently offer to assist with interpretation, employees should carefully consider the circumstances before relying

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on such individuals. For example, children should not be relied upon except in emergency or critical situations. Further, the nature of the contact and relationship between the disabled individual and the individual offering services must be carefully considered (e.g., victim/suspect).

#### **370.4 CONTACT SITUATIONS AND REPORTING**

While all contacts, services, and individual rights are important, this department will carefully consider reasonably available information in an effort to prioritize services to disabled and impaired individuals so that such services and resources may be targeted where most needed because of the nature and importance of the particular law enforcement activity involved.

Whenever any member of this department is otherwise required to complete a report or other documentation, and communication assistance is provided to any involved disabled or impaired individual(s), such services should be noted in the related report.

##### **370.4.1 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE**

In order to provide disabled and impaired individuals with meaningful access to law enforcement services when they are victims of, or witnesses to, alleged criminal activity or other emergencies, this department has designated its 911 lines as its top priority for assistance with such services. Department personnel will make every reasonable effort to promptly accommodate such disabled and impaired individuals utilizing 911 lines through any or all of the above resources.

While 911 calls shall receive top priority, it is also important that reasonable efforts be made to accommodate disabled and impaired individuals seeking more routine access to services and information from this department.

##### **370.4.2 CUSTODIAL INTERROGATIONS AND BOOKINGS**

In an effort to ensure the rights of all disabled and impaired individuals are protected during arrest and custodial interrogation, this department places a high priority on providing reasonable communication assistance during such situations. It is further recognized that miscommunication during custodial interrogations may have a substantial impact on the evidence presented in any related criminal prosecution. As such, department personnel providing communication assistance in these situations will make every reasonable effort to accurately and effectively communicate with disabled or impaired individuals.

Employees providing such assistance shall also be aware of the inherent communication impediments to gathering information from disabled or impaired individuals throughout the booking process or any other situation in which a disabled or impaired individual is within the control of department personnel. Medical screening questions are commonly used to elicit information on individual's medical needs, suicidal inclinations, presence of contagious diseases, potential illness, resulting symptoms upon withdrawal from certain medications, or the need to segregate the arrestee from other prisoners, therefore it is important for this department to make every reasonable effort to provide effective communication assistance in these situations.

- (a) Individuals who require communication aids (e.g., hearing aids) should be permitted to retain such devices while in custody.
- (b) While it may present officer safety or other logistical problems to allow a physically disabled individual to retain devices such as a wheel chair or crutches during a custodial situation, the removal of such items will require that other reasonable

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accommodations be made to assist such individuals with access to all necessary services.

- (c) Whenever a deaf or hearing impaired individual is detained or arrested and placed in handcuffs, officers should consider, safety permitting, placing the handcuffs in front of the body in order to allow the individual to sign or write notes.

#### **370.4.3 FIELD ENFORCEMENT AND INVESTIGATIONS**

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 which may involve disabled or impaired individuals. The scope and nature of these activities and contacts will inevitably vary, therefore the Department recognizes that it would be virtually impossible to provide immediate access to complete communication services to every officer in the field. Each officer and/or supervisor must, however, assess each such situation to determine the need and availability for communication assistance to any and all involved disabled or impaired individuals.

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

#### **370.4.4 COMMUNITY OUTREACH**

Community outreach programs and other such services offered by this department have become increasingly recognized as important to the ultimate success of more traditional law enforcement duties. As such, this department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services to disabled individuals and groups.

#### **370.5 TRAINING**

In an effort to ensure that all employees in public contact positions (or having contact with those in custody) are properly trained, this department will provide periodic training in the following areas:

- (a) Employee awareness of related policies, procedures, forms and available resources
- (b) Employees having contact with the public (or those in our custody) are trained to work effectively with in-person and telephone interpreters and related equipment
- (c) Training for management staff, even if they may not interact regularly with disabled individuals, in order that they remain fully aware of, and understand this policy, so they can reinforce its importance and ensure its implementation by staff

## **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.

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## DNA Samples

### 374.1 PURPOSE AND SCOPE

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

### 374.2 PERSONS SUBJECT TO DNA COLLECTION (SUSPENDED AUG. 2011 SEE FPD TB-11-09)

While the courts may order DNA samples taken in a variety of circumstances under the Act, members of this department are only authorized to obtain DNA samples from the following individuals absent other lawful means (e.g., consent or a search warrant).

Only those qualifying individuals whose DNA sample is not currently on file with the Department of Justice may be required to provide samples. Verification of DNA samples on file may be determined by a DNA collection flag on the individual's criminal history record or, during regular business hours, by calling the Department of Justice designated DNA laboratory at (510) 620-3300. All DNA collection flags should be verified by contacting DOJ prior to the collection of the sample (Penal Code § 298(b)(5)).

It is a misdemeanor for any qualified individual to refuse to give any or all required DNA samples following written notice of the requirement to do so (Penal Code § 298.1(a)).

#### 374.2.1 ARRESTEES

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

#### 374.2.2 SEX AND ARSON REGISTRANTS

Any adult or juvenile who is required to register as a sex offender under Penal Code § 290 or arsonist under Penal Code § 457.1, including those whose registration resulted from a qualifying misdemeanor crime is required to submit a DNA sample. (Penal Code § 296(a)(3)).

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

### 374.3 PROCEDURE

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

If it has been verified through DOJ records (RAP, etc) then an additional DNA sample may not be required (Policy 374.2.)

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### *DNA Samples*

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#### **374.3.1 BLOOD SAMPLES**

The withdrawal of blood may only be performed in a medically approved manner by health care providers trained and qualified to draw blood. Blood samples obtained for submission to the Department of Justice DNA lab shall be placed in Department of Justice blood vials (Penal Code § 298(a) and (b)(2)). A right thumbprint shall be placed on the sample vial along with other required identifying information.

#### **374.3.2 BUCCAL SWABS**

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

(Note: If an individual violently resists or presents other officer safety issues, employees may omit buccal swab samples upon approval of a supervisor.)

#### **374.3.3 FULL PALM PRINTS**

Full palm print impressions shall be obtained on Department of Justice prescribed forms along with all DNA samples. (Penal Code § 298(b)(4)).

#### **374.3.4 USE OF FORCE TO OBTAIN SAMPLES**

If, after a written or oral request, a qualified individual refuses to provide any or all of the required DNA samples, a sworn member of this department may use reasonable force to obtain such sample(s) under the following conditions:

- (a) Prior to the use of reasonable force, the officer(s) shall take and document reasonable steps to secure voluntary compliance (Penal Code § 298.1(c)(1)(C)).
- (b) Prior to the use of reasonable force, the officer(s) shall obtain written authorization from a supervisor which shall minimally include that the individual was asked to provide the sample(s) and refused (Penal Code § 298.1(c)(1)(B)).
- (c) If the authorized use of reasonable force includes a cell extraction, such extraction shall be video recorded (Penal Code § 298.1(c)(1)(D)).

For the purpose of this section, the "use of reasonable force" shall be defined as the force that an objective, trained and competent officer faced with similar facts and circumstances would consider necessary and reasonable to gain compliance. (Penal Code § 298.1(c)(1)(A)).

#### **374.4 PROCESSING DNA SAMPLES**

All DNA samples and related materials shall be promptly forwarded to the DNA Lab using DOJ mailing tubes, labels and instructions for prompt analysis. (Penal Code § 298(a) and (b)(1)).

##### **374.4.1 NOTICE OF A REJECTED SAMPLE**

In the event the Department of Justice notifies the Department that a DNA sample or print impression is not usable, the individual whose original sample or impression was provided is required to submit to collection of additional samples. The Department shall thereafter take all reasonable steps to collect additional samples from any such individual and promptly transmit these to the Department of Justice (Penal Code § 296.2(a)).

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#### **374.4.2 FOLLOW UP NOTICE TO DOJ**

Within two years of submitting any DNA specimen, sample or impression to the Department of Justice, this department shall notify DOJ whether the individual remains a suspect in a criminal investigation (Penal Code § 297(c)(2)). It shall be the responsibility of the Department of Justice to thereafter purge samples of any individual(s) who are no longer a suspect in any criminal investigation from the DNA database.

#### **374.5 RELATED STATUTES**

It is a felony for any qualifying individual to knowingly facilitate the collection of a wrongfully attributed DNA sample or identification information, or to knowingly tamper with any DNA sample or collection container with the intent to deceive the government as to his or her identity (Penal Code § 298.2).

It is unlawful for any person to knowingly misuse or disclose to an unauthorized entity a DNA sample collected or profile obtained for DNA database purposes (Penal Code § 299.5(i)(1)(A)).

#### **374.6 LITIGATION**

The Chief of Police or authorized designee shall immediately notify the Department of Justice DNA Legal Unit at (415) 703-5892 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.

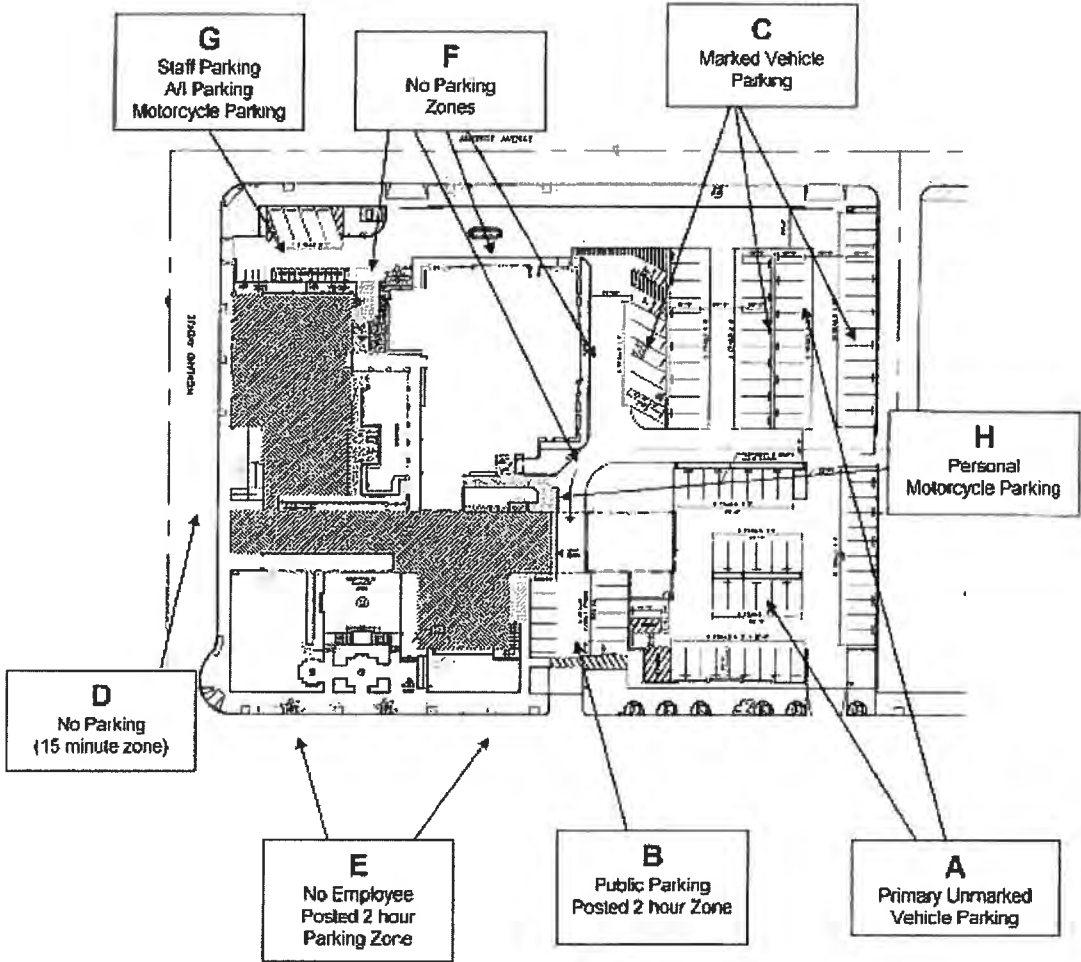
# Police Facility Parking

## 377.1 PURPOSE AND SCOPE

Employees reporting for duty shall not park their personal vehicles within the street parking areas in front of the Police Department on Commonwealth Avenue and Highland Avenue. These parking areas are available for the community conducting business at the Police Department. This policy applies 24 hours per day, seven days a week.

## 377.2 POLICY

The number of spaces within the secure parking area is limited to City vehicles, vehicles with assigned spaces and vehicles with handicapped placards. The following restrictions apply to both City and personal vehicles. Please refer to the following descriptions and the attached drawing for parking area restrictions.





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#### **377.2.1 UNMARKED VEHICLE PARKING AREA (A)**

The area located in the south portion of the parking lot is generally designated for unmarked vehicles including, detective cars, Jail van, radar trailer, other outside agency vehicles, etc.

#### **377.2.2 PUBLIC PARKING (B)**

The area located off of Commonwealth just south of the jail sally port entrance is designated for public parking only and parking is restricted to 2-hours between 8 AM and 5 PM. Employees are only authorized to park personal vehicles or department vehicles in this lot between 8 PM and 6 AM.

#### **377.2.3 MARKED VEHICLE PARKING (C)**

The area located in the north portion of the PD parking lot is designated for marked police vehicles including: patrol cars, sergeant cars, PCO vehicles, RSVP, etc. All numbered vehicles shall park in the appropriate numbered spaces. No weekend or overnight personal vehicle parking is permitted.

#### **377.2.4 CITY LOT**

Employees are authorized to park their personal vehicles in the City lot located at the northwest corner of Highland and Amerige with a City of Fullerton parking sticker clearly visible. The sticker is available from the Technical Services Bureau. Large trucks over 18 feet shall only park in the designated stalls or on the available spaces on the public streets. Vehicles less than 18 feet long shall not park in the larger truck stalls.

#### **377.2.5 HIGHLAND AVENUE (D)**

Parking of vehicles is not authorized along Highland in the 15 minute green zone, except that employees may park in this area for limited purposes not to exceed the posted time zone.

#### **377.2.6 COMMONWEALTH AVENUE (E)**

Parking of City or personal vehicles is not authorized along Commonwealth except that employees may park in this area for limited purposes such as dropping off paperwork at the desk, etc. Vehicle parking on Commonwealth is regulated by posted time zones which employees shall adhere to.

#### **377.2.7 RESTRICTED PARKING (F)**

Parking of vehicles is not authorized on Police Department property unless it is in a marked stall. Curb parking along the building, the fuel station or blocking any entrance is prohibited.

#### **377.2.8 STAFF LOT (G)**

This lot is for Staff members and there is one full sized stall against the building for one of the A/I vehicles.

#### **377.2.9 MOTORCYCLE PARKING (H)**

This area has been marked for parking personal motorcycles.

#### **377.2.10 EXCEPTIONS AND SECURITY ASSISTANCE**

Parking exceptions may be granted by a supervisor for legitimate reasons (e.g., multiple arrests, multi-agency events, etc.) Employees who have personal security concerns are

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### *Police Facility Parking*

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encouraged to contact the Watch Commander or patrol supervisor who will arrange for an escort.

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## Public Safety Camera System

### 378.1 PURPOSE AND SCOPE

The City of Fullerton operates a public safety camera system for the purpose of creating a safer environment for all those who live, work and visit the City. This policy explains the purpose of the cameras and provides guidelines for their operation and for the storage of captured images.

### 378.2 POLICY

Cameras may be placed in strategic locations throughout the City at the direction or with the approval of the Chief of Police. These cameras can be used for detecting and deterring crime, to help safeguard against potential threats to the public, to help manage emergency response situations during natural and man-made disasters and to assist City officials in providing services to the community.

### 378.3 PROCEDURE

The following procedures have been established for the effective operation of the public safety camera system.

#### 378.3.1 MONITORING

Images from each camera will be recorded on a 24-hour basis every day of the week. These images will be transmitted to monitors installed in the Watch Commander's Office and the Communications Center. When activity warranting further investigation is reported or detected at any camera location, the dispatcher may selectively view the appropriate camera and relay any available information to responding units. The Watch Commander or the Communications Center personnel are authorized to adjust the cameras to more effectively view a particular area for any legitimate public safety purpose.

The Chief of Police may authorize video feeds from the public safety camera system to be set up at a location other than the Communications Center for monitoring by other than police personnel when the provision of such access is in furtherance of this policy.

The cameras only record images and do not record sound. Recorded images may be used for a variety of purposes, including criminal investigations and monitoring of activity around high value or high threat areas. In addition, the public safety camera system may be useful for the following purposes:

- (a) To assist in identifying, apprehending and prosecuting offenders.
- (b) To assist in gathering evidence for criminal and civil court actions.
- (c) To help emergency services personnel maintain public order.
- (d) To monitor pedestrian and vehicle traffic activity.
- (e) To help improve the general environment on the public streets.
- (f) To assist in providing effective public services.

#### 378.3.2 TRAINING

Personnel involved in video monitoring will be appropriately trained and supervised.

# Fullerton Police Department

## Policy Manual

### *Public Safety Camera System*

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#### **378.3.3 PROHIBITED ACTIVITY**

Video monitoring will be conducted in a professional, ethical and legal manner. The public safety camera system will not be used to invade the privacy of individuals, to look into private areas or areas where the reasonable expectation of privacy exists. All reasonable efforts will be taken to protect these rights. Video monitoring shall not be used to harass, intimidate or discriminate against any individual or group.

#### **378.3.4 CAMERA MARKINGS**

Except in the case of covert operations or confidential investigations, all public areas that are monitored by public safety cameras shall be marked in a conspicuous manner with appropriate signs to inform the public that the area is under police surveillance. Signs shall be well lit to ensure visibility.

#### **378.4 MEDIA STORAGE**

All media will be stored in a secure area with access restricted to authorized persons.

Recordings not otherwise needed for official reasons shall be retained in accordance with the City of Fullerton Records Retention Schedules.

#### **378.5 REVIEW OR RELEASE OR OF VIDEO IMAGES**

The review or the release of video images shall be done only with the authorization of the Chief of Police or his/her designee and only with a properly completed written request. Video images needed for a criminal investigation or other official reason shall be collected and booked in accordance with current departmental evidence procedures.

##### **378.5.1 PUBLIC AND OTHER AGENCY REQUESTS**

Requests for recorded video images from other government agencies or by the submission of a court order or subpoena shall be promptly submitted to the Communications Manager, who will promptly research the request and submit the results of such search through the Chief of Police to the City Attorney's office for further handling. Every reasonable effort should be made to preserve the data requested until the request has been fully processed by the City Attorney's office.

Video images captured by public safety cameras that are requested by the public or media will be made available only to the extent required by law. Except as required by a valid court order or other lawful process, video images requested under the Public Records Act will generally not be disclosed to the public when such video images are evidence in an ongoing criminal investigation in which a disposition has not been reached.

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## Child Safety Policy

### 380.1 PURPOSE AND SCOPE

The Fullerton Police Department recognizes that children who are subjected to traumatic events, such as the arrest of a parent or guardian, may experience negative emotional effects that can last throughout the lifetime of the individual. After such an event the child may not receive the appropriate care, which can lead to further emotional or physical trauma. This policy is intended to provide guidelines for officers to take reasonable steps to minimize the impact to the child when it becomes necessary to take action involving the child's parent or guardian (Penal Code § 833.2(a)).

#### 380.1.1 POLICY

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

### 380.2 PROCEDURES DURING AN ARREST

When encountering an arrest situation officers should make reasonable attempts to determine if the arrestee is responsible for minor dependent children. In some cases this is obvious, such as when children are present. However, officers should inquire if the person has any other dependent minor children 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 dependent minor children.
- (b) Look for evidence of children. Officers should be mindful that some arrestees may conceal the fact that they have dependent children for fear their children may be taken from them.
- (c) Inquire of witnesses, neighbors, friends and relatives of the arrestee as to whether the person is responsible for a dependent child.

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

Whenever it is safe to do so, officers should allow the parent to assure children that they will be provided care. If this is not safe or if the demeanor of the in-custody parent 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 children that both parent and children will receive appropriate care.

#### 380.2.1 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, dependent minor children.

Officers should allow the arrestee reasonable time to arrange for care of minor children. Temporary placement of the child with family or friends may be appropriate. However, any

# Fullerton Police Department

## Policy Manual

### *Child Safety Policy*

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decision should give priority to a child-care solution that is in the best interest of the child. In such cases the following guidelines should be followed:

- (a) Allow the person reasonable time to arrange for the care of minor children 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's judgment regarding arrangements for child care. It is generally best if the child remains with relatives or family friends the child knows and trusts. Consideration regarding the child's familiarity with the surroundings, comfort, emotional state and safety should be paramount.
  2. Except when a court order exists limiting contact, the officer should attempt to locate and place dependent children with the non-arrested parent or guardian.
- (b) Provide for the immediate supervision of minor children until an appropriate caregiver arrives.
- (c) Notify Child Protective Services if appropriate.
- (d) Notify the field supervisor or Watch Commander of the disposition of minor children.

If children are at school or at a 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 parent's arrest and of the arrangements being made for the care of the arrestee's children, and then record the result of such actions in the associated report.

#### **380.2.2 DURING THE BOOKING PROCESS**

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

#### **380.2.3 REPORTING**

For all arrests where children are present or living in the household, the reporting employee will include information about the children, including names, gender, age and how they were placed.

#### **380.3 CHILD WELFARE SERVICES**

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any dependent minor children, the handling officer should consider taking children into protective custody and placing them with the appropriate county child welfare service or other department-approved social service (Welfare and Institutions Code § 305).

Only when other reasonable options are exhausted should a child 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 be left unattended or without appropriate care.

## 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 Fullerton 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 any animal that is individually trained to assist a person with a disability.

### 382.2 SERVICE ANIMALS

The ADA defines a service animal as any guide dog, signal dog or other animal individually trained to provide assistance to an individual with a disability. Service animals may be of any type or breed and need not be certified by any governmental agency or service group.

Some service animals, such as guide dogs, may be readily identifiable but 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 individuals with disabilities.

The following examples are just 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 with disabilities who have limited use of their hands, arms or legs.
- Pulling wheelchairs.
- Providing physical support and assisting people with physical disabilities 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 or to wake the person.
- 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, find places or follow daily routines.

### 382.3 EMPLOYEE RESPONSIBILITIES

Under the Americans with Disabilities Act, service animals assisting individuals with disabilities are permitted in all public facilities and areas where the general public is allowed. Employees are expected to treat individuals with service animals with the same courtesy and respect that the Fullerton Police Department affords to all members of the public.

If an animal exhibits vicious behavior, poses a direct threat to the health of others or unreasonably disrupts or interferes with normal business operations the employee may direct the partner/handler to remove the animal from the premises. Barking alone is not a threat nor does a direct threat exist if the partner/handler takes prompt, effective action

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# Fullerton Police Department

## Policy Manual

### *Service Animal Policy*

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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 and members of this department are expected to provide all services as are reasonably available to the individual with the disability.

If it is apparent or if the employee is aware the animal is a service animal, the handler/partner 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 question as to the animal's status should be asked. The person should not be asked questions 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. Employees 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 permit service animals to accompany their partner/handler in all areas that other customers or members of the public are allowed.

Absent a violation of law independent of ADA, officers should take no enforcement action beyond keeping the peace and individuals who believe they have been discriminated against as a result of their disability should be referred to the Civil Right Division of the U.S. Department of Justice.

#### **382.4 INQUIRIES AND COMPLAINTS**

Under the Americans with Disabilities Act, people with disabilities have the right to be accompanied by service animals in all public areas and the Fullerton Police Department considers interference with or denial of this right by any member of this department to be a serious violation of this policy. Complaints alleging violations of this policy against any department employee will be promptly investigated and should be referred to the Professional Standards Bureau.



## Volunteer Program

### 384.1 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.

#### 384.1.1 DEFINITION OF VOLUNTEER

An individual who performs a service for the Department without promise, expectation or receipt of compensation for services rendered. This may include unpaid chaplains, unpaid reserve officers, Retired Seniors (R.S.V.P.), interns, persons providing administrative support and youth involved in a law enforcement Explorer Post, among others.

### 384.2 VOLUNTEER MANAGEMENT

#### 384.2.1 VOLUNTEER COORDINATOR

The Volunteer Coordinator shall be appointed by the Services Division Commander. The function of the 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 Volunteer Coordinator should work with other Department staff on an ongoing basis to assist in the development and implementation of volunteer-staffed positions.

The Volunteer Coordinator, or his/her designee, 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 the volunteer handbook and outlining expectations, policies and responsibilities for all volunteers.
- (f) Maintaining a record of volunteer schedules and work hours.
- (g) Completion and dissemination as appropriate of all necessary paperwork and information.
- (h) Planning periodic recognition events.
- (i) Administering discipline when warranted.
- (j) Maintaining liaison with other volunteer-utilizing programs in the community and assisting in community-wide efforts to recognize and promote volunteering.

# Fullerton Police Department

## Policy Manual

### *Volunteer Program*

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#### **384.2.2 RECRUITMENT**

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.

Requests for volunteers should be submitted in writing by interested staff to the Volunteer Coordinator through the requester's immediate supervisor. A complete position description and a requested time-frame should be included in the request. All parties should understand that the recruitment of volunteers is enhanced by creative and interesting assignments. The Volunteer Coordinator may withhold assignment of any volunteer until such time as the requesting unit is prepared to make effective use of volunteer resources.

#### **384.2.3 SCREENING**

All prospective volunteers should complete the volunteer application form. The Volunteer Coordinator or designee should conduct a face-to-face interview with an applicant under consideration.

A documented background investigation shall be completed on each volunteer applicant and shall include, but not necessarily 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.

#### **384.2.4 SELECTION AND PLACEMENT**

Service as a 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, who will normally be the Volunteer Coordinator. 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 should complete all required enrollment paperwork and will receive a copy of their position description and agreement of service with the Department. All volunteers shall receive a copy of the volunteer handbook and shall be required to sign a volunteer agreement.

Volunteers should be placed only in assignments or programs that are consistent with their knowledge, skills, abilities and the needs of the Department.

#### **384.2.5 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 Volunteer Coordinator.

# Fullerton Police Department

## Policy Manual

### *Volunteer Program*

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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.

All volunteers shall comply with the rules of conduct and with all orders and directives, either oral or written, issued by the Department.

#### **384.2.6 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

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

#### **384.2.7 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.

Volunteers shall be required to return any issued uniform or department property at the termination of service.

#### **384.3 SUPERVISION OF VOLUNTEERS**

Each volunteer who is accepted to a position with the Department must have a clearly identified supervisor who is responsible for direct management of that volunteer. This supervisor will be responsible for day-to-day management and guidance of the work of the volunteer and should be available to the volunteer for consultation and assistance.

A volunteer may be assigned as and act as a supervisor of other volunteers provided that the supervising volunteer is under the direct supervision of a paid staff member.

Functional supervision of volunteers is the responsibility of the supervisor in charge of the unit where the volunteer is assigned. Following are some considerations to keep in mind while supervising volunteers:

- (a) Take the time to introduce volunteers to employees on all levels.
- (b) Ensure volunteers have work space and necessary office supplies.

# Fullerton Police Department

## Policy Manual

### *Volunteer Program*

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- (c) Make sure the work is challenging. Do not hesitate to give them an assignment or task that will tap these valuable resources.

#### **384.4 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 proper department personnel.

#### **384.5 PROPERTY AND EQUIPMENT**

Volunteers will be issued an identification card that must be worn at all times while on-duty. Any fixed and portable equipment issued by the Department shall be for official and authorized use only. Any property or equipment issued to a volunteer shall remain the property of the Department and shall be returned at the termination of service.

##### **384.5.1 VEHICLE USE**

Volunteers assigned to duties such as vacation house checks or other assignments that require the use of a vehicle must first complete the following:

- (a) A driving safety briefing and department approved driver safety course.
- (b) Verification that the volunteer possesses a valid California Driver License.
- (c) 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 patrol car 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.

##### **384.5.2 RADIO AND MDC USAGE**

Volunteers shall successfully complete CLETS and radio procedures training prior to using the police radio or MDC and comply with all related provisions. The Volunteer Coordinator should ensure that radio and CLETS training is provided for volunteers whenever necessary.

# Fullerton Police Department

## Policy Manual

### *Volunteer Program*

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#### **384.6 DISCIPLINARY PROCEDURES/TERMINATION**

A volunteer may be removed from the volunteer program at the discretion of the Chief of Police or the Volunteer Coordinator. 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.

##### **384.6.1 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.

##### **384.7 EVALUATION**

An evaluation of the overall volunteer program will be conducted on an annual basis by the 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 Fullerton 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 an amount of an alcoholic beverage or taken any drugs that would tend to adversely affect the officer's senses or judgment.

### 386.4 DECISION TO INTERVENE

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

# Fullerton Police Department

## Policy Manual

### *Off-Duty Law Enforcement Actions*

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#### **386.4.1 INTERVENTION PROCEDURE**

If involvement is objectively reasonable 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 Fullerton Police Department officer until acknowledged. Official identification should also be displayed.

#### **386.4.2 INCIDENTS OF PERSONAL INTEREST**

#### **386.4.3 CIVILIAN RESPONSIBILITIES**

Civilian personnel should not become involved in any law enforcement actions while off-duty except to notify the local law enforcement authority and remain at the scene, if safe and practicable.

#### **386.4.4 OTHER CONSIDERATIONS**

#### **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.

Fullerton Police Department  
Policy Manual

**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 of Fullerton, respond to calls for assistance, act as a deterrent to crime, enforce state and local laws and respond to emergencies 24 hours per day seven days per week.

Patrol will generally provide the following services within the limits of available resources:

- (a) Patrol that is directed at the prevention of criminal acts, traffic violations and collisions, the maintenance of public order, and the discovery of hazardous situations or conditions
- (b) Crime prevention activities such as residential inspections, business inspections, community presentations, etc.
- (c) Calls for service, both routine and emergency in nature
- (d) Investigation of both criminal and non-criminal acts
- (e) The apprehension of criminal offenders
- (f) Community Oriented Policing and Problem Solving activities such as citizen assists and individual citizen contacts of a positive nature
- (g) The sharing of information between the Patrol and other division within the Department, as well as other outside governmental agencies
- (h) The application of resources to specific problems or situations within the community, which may be improved or resolved by Community Oriented Policing and problem solving strategies
- (i) Traffic direction and control

#### 400.1.2 TERRORISM

It is the goal of the Fullerton 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 Fullerton Police Department.

#### 400.2.1 CRIME ANALYSIS UNIT

The Crime Analysis Unit (CAU) will be the central unit for information exchange. Criminal information and intelligence reports can be submitted to the Technical Services Bureau for distribution to all divisions within the Department through daily and special bulletins.

# Fullerton Police Department

## Policy Manual

### *Patrol Function*

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#### **400.2.2 CRIME REPORTS**

A crime report may be completed by any patrol officer who receives criminal information. The report will be processed and forwarded to the appropriate bureau for retention or follow-up investigation.

#### **400.2.3 PATROL BRIEFINGS**

Patrol supervisors, detective sergeants, and special unit sergeants are encouraged to share information as much as possible. All supervisors and/or officers will be provided an opportunity to share information at the daily patrol Briefings as time permits.

#### **400.2.4 INFORMATION CLIPBOARDS**

Several information clipboards will be maintained in the [briefing] room and will be available for review by officers from all divisions within the Department. These will include, but not be limited to, the patrol check clipboard, the wanted persons clipboard and the written directive clipboard.

#### **400.2.5 BULLETIN BOARDS**

A bulletin board will be kept in the [briefing] room and the Detective Bureau for display of suspect information, intelligence reports and photographs. New Departmental Directives will be made available for patrol supervisors and will be discussed at [briefing]s and shift meetings. A copy of the Departmental Directive will be placed on the [briefing] room clipboard.

## **Racial/Bias Based Profiling**

### **402.1 PURPOSE AND SCOPE**

The Fullerton Police Department strives to provide law enforcement to our community with due regard to the racial and cultural differences of those we serve. It shall therefore be the policy and practice of this department to provide law enforcement services and to enforce the law equally and fairly without discrimination toward any individual(s) or group because of their race, ethnicity or nationality, religion, gender, sexual orientation, or disability.

### **402.2 DEFINITION**

Racial/Bias based profiling, for purposes of this section, is the practice of detaining a suspect based on a broad set of criteria which casts suspicion on an entire class of people without any individualized suspicion of the particular person being stopped (Penal Code § 13519.4(e)).

### **402.3 POLICY**

The practice of racial/bias based profiling is illegal and will not be tolerated by this Department (Penal Code § 13519.4(f)).

- (a) It is the responsibility of every member of this department to prevent, report, and respond appropriately to clear discriminatory or biased practices.
- (b) Every member of this department engaging in a non-consensual detention shall be prepared to articulate sufficient reasonable suspicion to justify the detention independent of the individual's membership in a protected class.
  1. To the extent that written documentation would otherwise be completed (e.g., arrest report, F.I. card, etc.), the involved officer should include those facts giving rise to the officer's reasonable suspicion or probable cause for the contact.
  2. Nothing in this policy shall require any officer to prepare documentation of a contact that would not otherwise involve such reporting.
  3. While the practice of racial profiling is strictly prohibited, it is recognized that race or ethnicity may be legitimately considered by an officer 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).

The Fullerton Police Department will investigate all complaints of alleged racial/bias based profiling complaints against its members. Employees found to be in violation of this policy are subject to discipline in accordance with this department's disciplinary policy.

### **402.4 TRAINING**

- (a) All sworn members of this department will be scheduled to attend POST approved training on the subject of racial 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 our community.
- (c) Each member of this department undergoing initial POST approved training will thereafter be required to complete an approved refresher course every five years

# Fullerton Police Department

## Policy Manual

### *Racial/Bias Based Profiling*

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or sooner if deemed necessary in order to keep current with changing racial and cultural trends (Penal Code §13519.4(i)).

# 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

[REDACTED]

### 406.2.1 FIRST RESPONDER CONSIDERATIONS

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

### 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*

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#### **406.3.1 CONSENT**

Officers should seek consent to search from authorized individuals where possible. However, in the case of serious crimes or major investigations, it may be prudent to obtain a search warrant. Consent may be sought even in cases where a search warrant has been granted.

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## North County SWAT Guidelines

### 408.1 PURPOSE AND SCOPE

North County SWAT is the parent organization comprised of individual agency Special Weapons and Tactics teams, Crisis Negotiation teams, Tactical Dispatchers and other assigned personnel from the following police agencies: Brea/Yorba Linda, California State University Fullerton, Fullerton, La Habra, La Palma, and Placentia. In addition, specially trained paramedics from the above-represented city Fire Departments are assigned to serve the team as Tactical Paramedics. The team is established to pool personnel and equipment resources while providing specialized support in handling critical field operations where intense negotiations or special tactical deployment methods are required. This policy is established to outline the command structure, set guidelines and establish minimum standards for each agency in their selection, retention, and continual evaluation of team members.

This policy is written to comply with the guidelines established in the Attorney General's Commission on Special Weapons and Tactics Report (September 2002) and the POST 2005 SWAT Operational Guidelines and Standardized Training Recommendations (Penal Code § 13514.1).

#### 408.1.1 ADMINISTRATION OF NORTH COUNTY SWAT

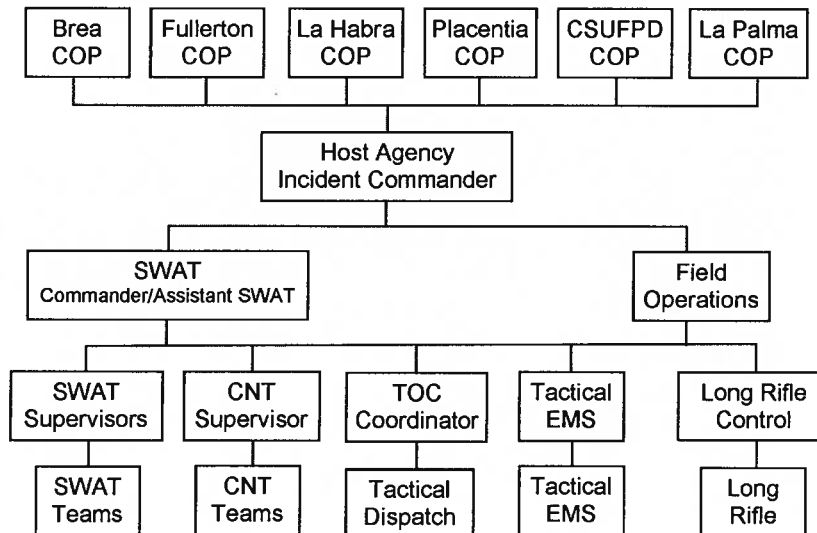
North County SWAT shall be managed under the combined direction of the Chiefs of Police from the involved agencies. That governing board shall be known as the North County SWAT Advisory Council.

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### North County SWAT Guidelines

#### NORTH COUNTY SWAT ORGANIZATION CHART



#### 408.1.2 SWAT TEAM DEFINED

A SWAT team is a designated unit of law enforcement officers that is specifically trained and equipped to work as a coordinated team to respond to critical incidents including, but not limited to: hostage taking, barricaded suspects, snipers, terrorist acts and other high-risk incidents. As a matter of agency policy, such a unit may be used to serve high-risk warrants, both search and arrest, where public and officer safety issues compel the use of such a unit.

#### 408.2 NORTH COUNTY SWAT COMMANDER/ASSISTANT COMMANDER

The Commander of North County SWAT shall be a lieutenant appointed by the North County SWAT Advisory Council. The Assistant Commander, a Lieutenant, will also be appointed by the North County SWAT Advisory Council and will ordinarily rotate at the beginning of each fiscal year to the position of Commander with the current Commander rotating to the position of Assistant Commander.

#### 408.2.1 TEAM SUPERVISORS

Team supervisors for North County SWAT will be chosen from the rank of sergeant. Team supervisors will have direct supervision over team members from their respective agency and full functional supervision over team members from adjoining team agencies during SWAT activations and training exercises.



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### *North County SWAT Guidelines*

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#### **408.2.2 RADIO FREQUENCIES**

#### **408.2.3 UNIFORM POLICY**

The duty uniform for tactical team members of North County SWAT will be olive drab (OD) green BDU's, without epaulet's. The individual agency shoulder patch shall be worn on the left sleeve, agency cloth badge on the left chest, and the North County SWAT team shoulder patch on the right sleeve. The officer's last name shall be embroidered on a cloth name strip, with black block letters on an OD green field, above the right breast shirt pocket and above the left rear pants pocket. A U.S.A. subdued flag patch will be placed immediately above the name strip above the right breast shirt pocket. Under the OD Green uniform shirt, an OD Green long sleeve or short sleeve North County SWAT team T-shirt shall be worn.

The training uniform for tactical team members of North County SWAT will be OD green BDU's, without epaulet's on the shirt. Depending upon the training exercise, the BDU shirt may not be required. If the BDU shirt is worn, the same patches and names stripes as described above shall be worn. Under the BDU shirt will be worn the team's North County SWAT OD green T-shirt, either long sleeve or short sleeve.

Insignia of rank will only be worn by the Team Commander/Assistant Commander, Team Supervisors and Team Leaders. Team Commander/Assistant Commander will wear Lieutenant's bars in standard placement upon the BDU uniform shirt collar. Team supervisors shall wear sergeant stripes. Team Leader's shall wear their designated senior officer/corporal or sergeant's stripes. No other rank designation will be authorized.

Once the North County SWAT team member has participated in six consecutive training days, and participated in one team activation, they will be authorized to wear a SWAT eagle pin on their standard uniform (i.e., the uniform worn by the team member during their normal duty hours and during formal occasions). The location where the pin will be worn, and the color of the pin, will be decided by the individual Department.

Team member identification cards will be issued to each member of North County SWAT. These identification cards shall be considered part of each team member's duty uniform and must be available to present as required during activations.

Team members shall only deploy with personal tools or equipment that have been approved by a Team Supervisor. Team Supervisors shall inspect all personal tools and equipment being carried by Team Members to ensure their overall safety, need, uniformity and compatibility with assigned weapons, tools and equipment.

#### **408.3 SWAT TRAINING / MANDATORY QUALIFICATION**

The North County SWAT Commander shall coordinate team training. In addition to specialized training courses, the North County SWAT Commander may conduct monthly training exercises, to include a review and critique of personnel and their performance

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### *North County SWAT Guidelines*

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in the exercises. Tactical team members, including Tactical Paramedics (TEMS), are to be offered 160 hours of standardized training annually, with Long Rifle team members receiving an additional 4 hours per month of specialized long rifle training/qualification. Crisis Negotiation team members are to be offered quarterly training in specialized/joint team training. Tactical Dispatchers will be requested to attend training at the discretion of the team Commander.

#### **408.3.1 BIENNIAL PHYSICAL FITNESS TESTING**

Each SWAT tactical team member below the rank of Lieutenant, including Tactical Paramedics, shall perform a physical fitness test biennially. Each team member must attain a minimum qualifying score. The physical fitness test has been designed to be "job specific" to the tactical officer's and tactical paramedic's role as approved by the Team Commander and the North County SWAT team Advisory Council.

Any SWAT tactical team member or Tactical Paramedic who is on vacation, ill, or fails to attain the minimum physical fitness qualification score will be required to re-test and attain a qualifying score within 30 days of the originally scheduled physical fitness test date. Any team member required to qualify shall report to a team supervisor and complete the physical fitness test. Failure to qualify within the thirty (30) days will result in dismissal from the team.


#### **408.3.2 SWAT LIGHT DUTY STATUS AND FITNESS TESTING**

SWAT tactical team members or Tactical Paramedics who are on light duty status with a doctor's note verifying their light duty status on the test date shall be responsible for reporting to a team supervisor and taking the test within thirty (30) days of their return to regular duty. Team members on light-duty status will be ineligible to deploy as a tactical operator during tactical operations until they have successfully completed the physical fitness test.

Team members may, at the discretion of the SWAT Commander, be authorized to attend training and/or perform non-tactical support duties as assigned during SWAT operations. Any member, who fails to arrange for and successfully perform the physical fitness test with the 30-day period, shall be considered as having failed to attain a qualifying score for that test period. Failure to qualify within those thirty (30) days will result in dismissal from the team. The 30-day retest period may be extended at the discretion of the SWAT Commander after considering the extent of injury and the extended time needed to return to full SWAT duty. clearly defined command structure.

#### **408.3.3 QUARTERLY WEAPONS TRAINING**

Quarterly, each SWAT team member shall perform the mandatory SWAT handgun qualification course.



SWAT team members shall only deploy weapons or weapon systems that they are currently qualified with. Those weapons include handguns, rifles, submachine guns, less lethal weapons and gas guns.

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### North County SWAT Guidelines

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#### **408.4 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 North County SWAT Commander. The performance and efficiency level, as established by the North County SWAT Commander, will be met and maintained by all SWAT team members. Any member of the SWAT team who continues to perform or function at a level less than satisfactory shall be dismissed from the team.

##### **408.4.1 UNSATISFACTORY PERFORMANCE**

Any member of North County SWAT who functions at a less than satisfactory level shall be advised of their deficiency by their team supervisor. The supervisor will explain the deficiency and clarify what improvement is required and how acceptable performance can be achieved. A specified period will be offered to the team member to demonstrate the required improvement. Should the employee fail to meet the expected standards after this opportunity to improve, they shall be removed from the team.

##### **408.4.2 TRAINING SAFETY AND ON-DUTY INJURY DURING SWAT OPERATIONS**

Use of a designated safety officer should be considered for all tactical training. Should a team member sustain an injury during training, or during a team activation, that team member's team supervisor (e.g., if the injured person works for the city of Fullerton a Fullerton team supervisor) shall be notified as soon as possible. If the injury necessitates transportation to a medical facility a TEMS team member should accompany the injured person to the medical facility if possible.

#### **408.5 GUIDELINES FOR ACTIVATING NORTH COUNTY SWAT**

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

##### **408.5.1 PLANNED EVENTS**

[REDACTED]

[REDACTED]

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[REDACTED]

**408.5.2 NON-PLANNED EVENTS**

[REDACTED]

**408.5.3 ACTIVATION STAFFING LEVELS FOR NON-PLANNED EVENTS**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**408.5.4 TACTICAL PARAMEDICS**

Highly trained and experienced tactical paramedics are an essential element of any SWAT operation. [REDACTED]

**408.5.5 NEGOTIATORS**

The specialized experience and knowledge of trained negotiators are critical to the successful outcome of any SWAT activation. [REDACTED]

**408.5.6 TACTICAL DISPATCHERS**

Tactical Dispatchers are an integral part of the Units Tactical Operations Center (TOC). In order to ensure proper communications as well as incident documentation, [REDACTED]

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[REDACTED]

**408.6 ON-SCENE RESPONSIBILITIES**

**408.6.1 FIELD UNITS**

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

**408.6.2 INCIDENT COMMANDER**

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

**408.6.3 MOBILIZATION OF NORTH COUNTY SWAT**

[REDACTED]

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#### 408.6.4 NON-PLANNED DEPLOYMENT CATEGORIES

- [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
- [REDACTED]

#### 408.7 SELECTION CRITERIA & PROCESS

Interested personnel, who are off probation, shall submit a change of assignment request per their normal Department request for change of assignment procedure. An approved copy will be forwarded to their agency SWAT supervisor. Qualifying applicants will be invited to participate in the testing process. A series of tests will be given at the direction of the North County SWAT Commander.

##### 408.7.1 TACTICAL TEAM SELECTION PROCESS

The testing process will minimally consist of an oral board, physical agility, SWAT basic handgun proficiency, and Team evaluation.

The oral board will consist of personnel approved by the North County SWAT Commander. The oral board will consist of SWAT team supervisors or team leaders from at least two team agencies. Applicants will be evaluated on the following criteria:

- (a) Recognized competence and ability as evidenced by performance in their duty assignments;
- (b) Demonstrated good judgment and understanding of the critical role of a SWAT team member;
- (c) Special skills, training, or education as it pertains to this assignment; and,
- (d) Commitment to the unit, realizing that the additional assignment may necessitate unusual working hours, conditions, and training obligations.

The physical agility test is designed to evaluate the physical capabilities of the applicant as they relate to the performance of their SWAT duties. The testing and scoring procedure will consist of the North County SWAT obstacle course. Any applicant considered for the position shall attain, at minimum, the established qualifying score of seven minutes and 44 seconds.

Candidates will be invited to shoot the North County SWAT "Basic Drill for the handgun." A minimum qualifying score of 450 out of a possible score of 500 must be attained to qualify.

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Current applicant agency team members will evaluate each candidate on their field tactics, teamwork, ability to work under stress, communication skills, judgment, and any special skills beneficial to the team.

The North County SWAT Commander, through the applicant's agency team supervisor, shall submit a list of successful applicants to the applicant's agency Staff for final selection.

#### **408.7.2 TACTICAL PARAMEDICS SELECTION PROCESS**

The testing process will minimally consist of an oral board and physical agility.

The oral board will consist of personnel approved by the North County SWAT Commander. The oral board will consist of current Tactical Paramedics, SWAT team supervisors or team leaders from at least two team agencies. Applicants will be evaluated on the following criteria:

- (a) Recognized competence and ability as evidenced by performance in their duty assignments;
- (b) Demonstrated good judgment and understanding of the critical role of a Tactical Paramedic;
- (c) Special skills, training, or education as it pertains to this assignment; and,
- (d) Commitment to the unit, realizing that the additional assignment may necessitate unusual working hours, conditions, and training obligations.

The physical agility test is designed to evaluate the physical capabilities of the applicant as they relate to the performance of their SWAT duties. The testing and scoring procedure will consist of the North County SWAT obstacle course. Any applicant considered for the position shall attain, at minimum, the established qualifying score of seven minutes, 44 seconds.

The North County SWAT Commander, through the applicant's host agency team supervisor, shall submit a list of successful applicants to the applicant's agency Fire Department Staff for final selection.

#### **408.7.3 NEGOTIATOR SELECTION PROCESS**

The testing process will minimally consist of an oral board and team evaluation.

The oral board will consist of personnel approved by the North County SWAT Commander. The oral board will consist of Negotiator supervisors, SWAT team supervisors or team leaders from at least two team agencies. Applicants will be evaluated on the following criteria:

- (a) Recognized competence and ability as evidenced by performance;
- (b) Demonstrated good judgment and understanding of critical role of negotiator and negotiation process;
- (c) Effective communication skills to ensure success as a negotiator;
- (d) Special skills, training, or appropriate education as it pertains to the assignment;
- (e) Commitment to the unit, realizing that the assignment may necessitate unusual working hours, conditions, and training obligations.

The North County SWAT Commander, through the applicant's host agency team supervisor, shall submit a list of successful applicants to the applicant's agency Staff for final selection.

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#### 408.7.4 TACTICAL DISPATCHER SELECTION PROCESS

The testing process will minimally consist of an oral board and team evaluation.

The oral board will consist of personnel approved by the North County SWAT Commander. The oral board will consist of current Tactical Dispatchers, Negotiator supervisors, SWAT team supervisors or team leaders from at least two team agencies. Applicants will be evaluated on the following criteria:

- (a) Recognized competence and ability as evidenced by performance;
- (b) Effective communication skills;
- (c) Demonstrated good judgment and understanding of critical role of the tactical dispatcher and tactical dispatch process;
- (d) Special skills, training, or appropriate education as it pertains to the assignment; and,
- (e) Commitment to the unit, realizing that the assignment may necessitate unusual working hours, conditions, and training obligations.

The North County SWAT Commander, through the applicant's host agency team supervisor, shall submit a list of successful applicants to the applicant's agency Staff for final selection.

#### 408.8 FLASH/SOUND DIVERSIONARY DEVICES

##### 408.8.1 PURPOSE & SCOPE

The purpose of this policy is to establish guidelines for the deployment and use of flash/sound diversionary devices.

Personnel of North County SWAT are authorized to use flash/sound diversionary devices, sometimes referred to as "flashbangs", in situations when the use of a less-lethal diversion would facilitate entry, enable an arrest, restore order, and/or potentially reduce the risk of injury.

##### 408.8.2 JUSTIFICATION FOR USE

Circumstances justifying the use of flash/sound diversionary devices may include, but not be limited to:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

##### 408.8.3 CARRYING/DEPLOYING DIVERSIONARY DEVICES

[REDACTED]



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#### **408.8.4 AUTHORIZATION FOR USE**

Except in extreme emergencies (i.e., life-threatening situations), flash/sound diversionary devices shall not be used without prior authorization of the North County SWAT Commander or Team Supervisor.

#### **408.8.5 DEPLOYMENT CONSIDERATIONS**



#### **408.8.6 SAFETY EQUIPMENT**



#### **408.8.7 DOCUMENTATION AND REVIEW**

Whenever flash/sound diversionary devices are deployed by team members in an actual situation or incident, that fact shall be noted in the after-action report. In the event devices are deployed, the circumstances surrounding their deployment shall be fully described. Correct nomenclature must always be used. The team Commander or his/her designate shall be responsible for reviewing any deployment of flash/sound diversionary devices to ensure that policy is/was followed.

#### **408.8.8 REPORTING REQUIREMENTS**

Flash/sound diversionary devices are registered by serial number with the Bureau of Alcohol, Tobacco and Firearms (ATF). Typically, the Department's purchase of new devices is reported directly (by case-lot serial numbers) to ATF by the device manufacturer via ATF form 5. The National Firearms Act requires the Department to document the use/expenditure of flash/sound diversionary devices.

#### **408.8.9 INSPECTION AND STORAGE**

The North County SWAT Commander shall be responsible for ensuring that all flash/sound diversion devices are inspected annually. This inspection shall ensure that each Department's devices are properly prepared and in good condition. Devices used beyond their recommended lifetimes shall be designated for use in training only. Flash/sound diversionary devices shall be stored in a cool, dry location separate from fixed ammunition. Devices may be temporarily issued to North County SWAT team members provided appropriate records are maintained. Devices should be carried securely in a pouch/carrier with a retention strap or flap.

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**408.9 CONTROL DEVICES AND TECHNIQUES FOR NORTH COUNTY SWAT**

[REDACTED]

[REDACTED]

**408.9.1 REQUIRED INSTRUCTION FOR USE**

All North County SWAT team members received their initial chemical agent training as part of their POST basic academy. Annual refresher training on chemical agents shall be provided to all members of the Team.

**408.9.2 TRANSITIONAL LOADING PROCEDURES**

[REDACTED]

## 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 Fullerton Police Department Ride-Along Program is offered to residents, students and those employed within the City. Every attempt will be made to accommodate interested persons however any applicant may be disqualified without cause.

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

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

#### 410.1.2 AVAILABILITY

The ride-along Program is available on most days of the week, with certain exceptions established by the Community Services Bureau. The ride-along times are from 10 a.m. to 1:00 p.m. (3 hours) or from 7:00 p.m. to 10:00 p.m. (3 hours) Exceptions to this schedule may be made as approved by the Chief of Police, Division Commander, Watch Commander, or Community Services Bureau Manager.

### 410.2 PROCEDURE TO REQUEST A RIDE-ALONG

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

The Community Services will schedule a date, based on availability, at least two weeks after the date of application. A Department of Justice Criminal History (RAP) printout will be obtained by the Community Services Bureau and attached to the request. The white colored original with the RAP attached will be forwarded to the Records Bureau to be filed in the unnumbered correspondence file. The blue copy will be sent to the appropriate Patrol Watch Commander. The goldenrod copy will be kept in file in the Community Services Bureau. The Watch Commander or their designate has the discretion to accept, approve or deny a request at any time.

If the ride-along is denied after the request has been made, a representative of the Community Services Bureau will contact the applicant and advise him/her of the denial. If the request is approved by the Community Services Bureau but later denied by the Watch Commander, it will be the responsibility of the Watch Commander to notify the applicant. If practical the Watch Commander can refer the applicant to contact the Community Services Bureau Manager for further information regarding the denial.

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### *Ride-Along Policy*

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#### **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.

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

Ride-along requirements for police cadets are covered in Policy Manual § 1048, "Police Cadet Program."

#### **410.2.2 SUITABLE ATTIRE**

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

#### **410.2.3 PEACE OFFICER RIDE-ALONGS**

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

#### **410.2.4 RIDE-ALONG CRIMINAL HISTORY CHECK**

All Ride-along applicants are subject to a criminal history check. The criminal history check may include a local records check and a Department of Justice Automated Criminal History System check through CLETS prior to their approval as a ride-along with a law enforcement officer (provided that the ride-along is not an employee of the Fullerton 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 Community Services is responsible for maintaining and scheduling ride-alongs. Upon completion of the ride-along, the yellow form shall be returned to the Community Services with any comments which may be offered by the officer.

#### **410.4 CONTROL OF RIDE-ALONG**

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

- (a) The ride-along will follow the directions of the officer

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### *Ride-Along Policy*

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- (b) The ride-along will not become involved in any investigation, handling of evidence, discussions with victims or suspects, or handling any police equipment
- (c) The ride-along may terminate the ride at any time and the officer may return the observer to their home or to the station if the ride-along interferes with the performance of the officer's duties
- (d) Ride-alongs may be allowed to continue riding during the transportation and booking process provided this does not jeopardize their safety
- (e) Officers will not allow any ride-alongs to be present in any residences or situations that would jeopardize their safety or cause undue stress or embarrassment to a victim or any other citizen
- (f) Under no circumstance shall a civilian ride along be permitted to enter a private residence with an officer without the expressed consent of the resident or other authorized person

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## Hazardous Material Response

### 412.1 PURPOSE AND SCOPE

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

#### 412.1.1 HAZARDOUS MATERIAL DEFINED

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

### 412.2 HAZARDOUS MATERIAL RESPONSE

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

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

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

### 412.3 REPORTING EXPOSURE(S)

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

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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### *Hazardous Material Response*

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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.

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## Anti Spitting Hood

### 413.1 PURPOSE AND SCOPE

The TranZport Hood™ is a temporary protective hood for use on those persons where a risk of exposure to infectious disease is present. If used properly, the Hood can reduce the risk of the wearer transmitting fluids (saliva and mucous) from the facial area, as by spitting, sneezing or coughing. According to the manufacturer improper use may result in serious injury or death from asphyxiation, suffocation or drowning in ones own fluids.

### 413.2 CONDITIONS FOR USE

The following conditions must be observed prior to use:

- (a) Prisoner must be under control and restrained.
- (b) Wearer must be under constant visual supervision and should **NOT** be left unattended.
- (c) **Do Not Use** on anyone that is vomiting, having difficulty breathing, or is bleeding profusely from the mouth or nose area. If practical, remove all neck and facial jewelry and eyewear before application.
- (d) The Hood is one size fits all. If there is difficulty applying due to a large size head, discontinue use.

### 413.3 INSTRUCTIONS FOR USE

- (a) Open bag-remove Hood.
- (b) Place Hood over the head of the person where the mesh fabric is covering the eye area (top) of the head, and the filtration fabric is covering the lower half of the head (below nostrils).
- (c) For best fit, the center elastic will go under the nose and over the ears (for better protection, the elastic may be placed above the nostrils).
- (d) Carefully push the white plastic Secure-Lock tab down toward the top of the head while holding the top of the mesh fabric. This should take the slack out of the top and help to secure the Hood in position. **Do Not** push so tightly as to be uncomfortable or impair vision of the wearer.

Once the **Tranzport Hood** has been used it should not be reused. Remove and discard when destination is reached; when prisoner is to be left unattended; or as advised by a superior. Notify the Professional Standards Bureau of the need for replacement.

### 413.4 PROFESSIONAL STANDARDS BUREAU RESPONSIBILITY

It is the responsibility of the Professional Standards Bureau to control inventory and issue replacement TranZport Hoods™.

### 413.5 AUTHORIZED HOOD

The TranZport Hood™ manufactured by NIK Public Safety, Inc. is the only authorized hood. Officers shall only use the TranZport Hood™.



# Hostages & Barricaded Suspects

## 414.1 PURPOSE AND SCOPE

Hostage situations and barricaded suspects present unique problems for agencies. The protection of the public and law enforcement personnel is of the utmost importance. Proper planning and training will tend to reduce the risks involved with these incidents.

### 414.1.1 DEFINITIONS

**Hostage** - A person held by one party in a conflict as security so that specified terms will be met by the opposing party.

**Barricaded Suspect** - A person who takes a position of cover or concealment or maintains a position in a structure and who resists capture by law enforcement personnel. A barricaded suspect may be armed or suspected of being armed.

## 414.2 HOSTAGE NEGOTIATIONS

[REDACTED]

[REDACTED]

## 414.3 FIRST RESPONDER RESPONSIBILITY

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

## 414.4 REPORTING

Unless otherwise relieved by a supervisor, the initial officer at the scene is responsible for completion of reports or coordination of reports for the hostage/barricade incident.

## Emergency 999 Calls

### 415.1 PURPOSE AND SCOPE

Radio call "999" is designed to provide officers emergency assistance through mutual aid from designated adjoining cities. These calls for assistance shall be reserved for situations that appear life threatening.

#### 415.1.1 USE OF "999"

Officers requesting emergency assistance, including officers from adjoining cities shall broadcast "999" on the Red Channel. Officers shall provide their full 5-digit identifier, their location and the type of assistance needed.

### 415.2 MUTUAL AID CITIES

The Orange County Chiefs of Police and Sheriff's Association has agreed on the following Mutual Aid Cities:

#### 415.2.1 FULLERTON OFFICER REQUESTS ASSISTANCE

In cases where Fullerton issues a 999 Call, the following cities will respond:

- Anaheim
- Buena Park
- Brea
- La Habra
- Orange County Sheriff's Department (Units in area)
- California Highway Patrol (Units in area)

#### 415.2.2 OTHER AGENCY REQUESTS ASSISTANCE

The City of Fullerton will respond to 999 Calls after approval by the Watch Commander to the following cities:

- Anaheim
- Buena Park
- Brea
- La Habra
- Placentia
- Orange County Sheriff's Department (For units in the Fullerton area)
- California Highway Patrol (For units in the Fullerton area)

### 415.3 OTHER EMERGENCY RESPONSE

The intent of this procedure is to describe the procedure in requesting and answering "999" calls, and in no way prohibits this Department from responding to any other law enforcement agency upon request, providing the request is handled in the proper manner.

## 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

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

### 416.3 EXPLOSION/BOMBING INCIDENTS

[REDACTED]

- [REDACTED]

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*Response to Bomb Calls*

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- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

**416.3.1 NOTIFICATIONS**

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

**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**

[REDACTED]

**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**

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

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### *Response to Bomb Calls*

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[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

#### **416.4.2 RESPONSIBILITIES**

[REDACTED]

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## Stolen Vehicle Procedure

### 417.1 PURPOSE AND SCOPE

All stolen, recovered, stored, and impounded vehicles must be entered into the California Law Enforcement Telecommunications System (CLETS)/Stolen Vehicle System (SVS). This is accomplished through Teletype entries completed by records personnel. To assure that only correct entries are made, the following procedure must be carefully followed.

### 417.2 STOLEN VEHICLES REPORTED TO F.P.D.

The officer, after obtaining a General Broadcast (G.B.) from Control One, if appropriate, will give the CHP 180 Form to a Records Clerk for immediate entry into SVS, rather than turning it into the Watch Commander.

The Records Clerk, after making the entry into the system, records the FCN number, in red, on the lower portion of the front of the CHP 180 Form. The CHP 180 Form is then turned into the Watch Commander for review.

### 417.3 RECOVERED STOLEN VEHICLES

Whenever a stolen vehicle is recovered, the recovery needs to be documented and the SVS entry updated to show the vehicle was recovered.

- (a) In all cases, a CHP Form 180 shall be completed and forwarded to Records as soon as practical for the appropriate teletypes to be done through SVS. If the vehicle is stolen and recovered all at the same time, only one form is necessary, with the appropriate fields completed to document the theft and recovery.
- (b) Records personnel will attempt to notify the victim, via telephone, of the vehicle's recovery during the following times:
  1. Monday through Friday 5:00 p.m. to midnight
  2. Saturday, Sunday, and Holidays 7:30 a.m. to midnight
- (c) Records personnel shall advise the victim of the location of the vehicle, and the process for obtaining the vehicle.
- (d) Notification and attempts to notify shall be documented with a red stamp on the Teletype document.
- (e) Investigation personnel are responsible to contact the victim for notification in the event Technical Services Bureau personnel were unable to make contact.
- (f) In the above procedure, officers are to complete an FPD 125a Form (Recovered Vehicle Courtesy Teletype) addressed to the agency who took the original stolen vehicle report.

### 417.4 STORED/IMPOUNDED OR REPOSSESSED VEHICLES

Vehicles stored or impounded by this Department including repossessed vehicles and private property impounds, are to be entered into SVS by this Department. Stolen vehicles reported to other agencies recovered by this Department will not be entered into the SVS by our Technical Services Bureau. The reporting agency will update the SVS entry when they receive the Teletype as dictated in §914.12(a).

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### *Stolen Vehicle Procedure*

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#### **417.5 LOJACK EQUIPPED VEHICLES**

Officers who take stolen vehicle reports on vehicles equipped with the "LoJack" tracking device shall call the Technical Services Bureau as soon as possible from the field so the vehicle can be entered immediately into SVS. Officers shall bring the original CHP Form 180 to the Technical Services Bureau as soon as possible following the normal process for stolen vehicle reports as described in this policy.

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## 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 the Communications Center 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.

Officers may transport patients in the patrol unit and shall secure them in accordance with the handcuffing policy. Violent patients or those that are medically unstable may be restrained and transported by ambulance and 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*

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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, if a person has committed a crime, and they appear to be mentally ill, that person shall be booked at the Fullerton Police Department before being transported to a treatment facility. If the suspect has injuries or some other medical condition, he/she may be taken directly to the hospital with the approval of a supervisor. If a criminal charge is pending, the officer should take necessary steps to make sure the hospital staff contacts the Watch Commander, regarding the expected time of releasing the patient. The Watch Commander will evaluate the necessity of taking custody of the patient and take appropriate steps to return the patient into custody for pending criminal charges.

If the offense is of a serious nature, the suspect may be booked into the Orange County Jail as directed by the Watch Commander or 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

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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.

#### **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.

#### **418.7 EMERGENCY DEPARTMENT RESPONSIBILITIES**

Each facility has varying degrees of services and not all will have available security personnel. However, most treatment facilities will attempt to relieve the transporting officer quickly.

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### *Mental Illness Commitments*

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The on-duty Emergency Department physician will assess the patient and coordinate further treatment with the facilities' Psychiatric Unit. If the facility does not have an available psychiatric treatment the officer should coordinate with the staff to arrange for an inter-hospital transfer so the officer would not be required to remain with the patient.

If the officer feels that he/she is being unnecessarily delayed at the facility a staff supervisor should be contacted to resolve the delay. If the officer and the staff are unable to resolve the situation a field supervisor shall be notified regarding the circumstances. Specific difficulties requiring administrative action should be documented and forwarded to the Professional Standards Bureau Sergeants for further investigation.

## 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*

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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 Fullerton 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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### *Cite & Release Policy*

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When a person is arrested on a misdemeanor offense and is not released by criminal citation, the reason for non-release shall be noted on the booking form. This form shall be submitted to the Watch Commander for approval and included with the case file in the Technical Services 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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### *Cite & Release Policy*

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- Misdemeanor traffic violations of the Vehicle Code
- Violations of the Fullerton City codes

All other misdemeanor violations for juveniles shall be documented with a case number and the case should be referred to the Detective Bureau for further action including diversion.

#### **420.6 REQUESTING CASE NUMBERS**

Many cases involving a criminal citation release can be handled without requesting a case number. Traffic situations and local code violations can be documented on the reverse side of the records copy of the citation. Most Penal Code 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.

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## 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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### *Arrest or Detention of Foreign Nationals*

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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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### *Arrest or Detention of Foreign Nationals*

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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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### *Arrest or Detention of Foreign Nationals*

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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 the Communications Center as soon as practical and request the appropriate embassy/consulate be notified. Officers shall provide the Communications Center with the following information concerning the individual:

- Country of citizenship
- Full name of individual, including paternal and maternal surname, if used
- Date of birth or age
- Current residence
- Time, date, place, location of incarceration/detention and the 24-hour telephone number of the place of detention if different from the Department itself

If the individual claims citizenship of one of the countries for which notification of the consulate/embassy is mandatory, officers shall provide the Communications Center with the information above as soon as practicable, regardless of whether the individual desires that the embassy/consulate be notified. This procedure is critical because of treaty obligations with the particular countries. The list of countries and jurisdictions that require notification can be found on the U.S. Department of State website.

#### **422.7.2 DOCUMENTATION**

Officers shall document on the face page and in the narrative of the appropriate Arrest-Investigation Report the date and time the Communications Center was notified of the foreign national's arrest/detention and his/her claimed nationality.

#### **422.7.3 TABLE ONE MANDATORY NOTIFICATION COUNTRIES**

Algeria	Hong Kong 2	Seychelles
Antigua and Barbuda	Hungary	Sierra Leone
Armenia	Jamaica	Singapore
Azerbaijan	Kazakhstan	Slovakia
Bahamas, The	Kiribati	Tajikistan

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Barbados	Kuwait	Tanzania
Belarus	Kyrgyzstan	Tonga
Belize	Malaysia	Trinidad and Tobago
Brunei	Malta	Tunisia
Bulgaria	Mauritius	Turkmenistan
China 1	Moldova	Tuvalu
Costa Rica	Mongolia	Ukraine
Cyprus	Nigeria	United Kingdom 3
Czech Republic	Philippines	U.S.S.R. 4
Dominica	Poland (non-permanent residents only)	Uzbekistan
Fiji	Romania	Zambia
Gambia, The	Russia	Zimbabwe
Georgia	Saint Kitts and Nevis	
Ghana	Saint Lucia	
Grenada	Saint Vincent and the Grenadines	

<sup>1</sup> Notification is not mandatory in the case of persons who carry "Republic of China" passports issued by Taiwan. Such persons should be informed without delay that the nearest office of the Taipei Economic and Cultural Representative Office ("TECRO"), the unofficial entity representing Taiwan's interests in the United States, can be notified at their request.

<sup>2</sup> Hong Kong reverted to Chinese sovereignty on July 1, 1997, and is now officially referred to as the Hong Kong Special Administrative Region, or "SAR." Under paragraph 3(f)(2) of the March 25, 1997, U.S.-China Agreement on the Maintenance of the U.S. Consulate General in the Hong Kong Special Administrative Region, U.S. officials are required to notify Chinese officials of the arrest or detention of the bearers of Hong Kong passports in the same manner as is required for bearers of Chinese passports— i.e., immediately, and in any event within four days of the arrest or detention.

<sup>3</sup> United Kingdom includes England, Scotland, Wales, Northern Ireland and Islands and the British dependencies of Anguilla, British Virgin Islands, Bermuda, Montserrat, and the Turks and Caicos Islands. Their residents carry British passports.

<sup>4</sup> Although the U.S.S.R. no longer exists, some nationals of its successor states may still be traveling on its passports. Mandatory notification should be given to consular officers for all nationals of such states, including those traveling on old U.S.S.R. passports. The successor states are listed separately above.

## **Second Call Response Procedure**

### **423.1 PURPOSE AND SCOPE**

Section 2.34.020 FMC establishes a second call ordinance, enabling the City to obtain financial reimbursement for costs associated with responding to a disturbance from the person(s) responsible for the event. This policy is intended to outline the procedure by which this ordinance should be enforced by officers of this Department. This procedure is a civil process and is not intended to replace any appropriate criminal action taken by officers.

### **423.2 WRITTEN NOTICE TO POTENTIAL VIOLATORS (FIRST RESPONSE)**

Officers of this Department should give a warning of potential financial responsibility to the party or person in charge of the premises upon the first response. Such notice should be given in writing by using the pamphlets provided by the Department entitled "City of Fullerton Police Department - Loud Party - Public Safety Service Fee (First Response)." This pamphlet provides for the signature of the responsible party when notice is given at the first response. Although preferable, a signature is not mandatory for notice to be considered complete and for the second response ordinance to be enforced. The officer shall remove and retain the "File Copy" and give the remainder of the pamphlet to the responsible party.

#### **423.2.1 WRITTEN NOTICE TO VIOLATORS (SECOND RESPONSE)**

Upon receipt of a second complaint and subsequent response regarding the continued disturbance, the assigned officer shall attempt contact with the same person to whom the "First response" notice was given. The responsible person shall then be issued the pamphlet entitled, "City of Fullerton - Loud Party - Public Safety Service Fee, Disturbance Violation - ("Second Response Notice." This notice also provides for the signature of the responsible party but it is not required to be considered complete. The officer shall remove and retain the "File Copy" and give the remainder of the pamphlet to the responsible party.

### **423.3 ENFORCEMENT OF THE ORDINANCE**

Officers have discretion in all disturbance calls that are likely to result in a second response. The intent of this ordinance is to apply to extreme cases where the disturbance is a nuisance that becomes a threat to the public peace, health, safety or general welfare. The ordinance is not intended to be invoked for every disturbance, but rather those that involve uncooperative hosts that refuse to comply with the officer's attempts to remove the disturbance as it affects the community.

In all first-call notifications, officers should make it clear that the aim is to end the disturbance, not the party or gathering.

### **423.4 CONFIRMATION OF A DISTURBANCE**

In all instances of a disturbance complaint, it is incumbent upon the responding officer(s) to determine that a violation of the public peace is in fact occurring. If there is no disturbance evident, the officer should make contact with the complaining party to identify any additional information applicable to the call.

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### *Second Call Response Procedure*

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#### **423.5 REQUIRED NOTIFICATIONS**

In all cases where a first call notice is issued, the reporting officer is responsible to notify the dispatcher that such action has been taken. The dispatcher will then make an appropriate entry to document this information.

Should such notification occur near the change of watch, the officer will be responsible to notify the oncoming Watch Commander about the notification. The "File Copy" of the first response notice is to be turned in to the Watch Commander who will maintain it for a period of twenty-four (24) hours. If no second call response is required, the "File Copy" may be discarded.

#### **423.6 "SECOND RESPONSE"- DOCUMENTATION**

When a second response occurs, and the "Loud Party, Public Safety Service Fee, Disturbance Violation - Notice" is issued to the host or responsible party, a case number should be issued to document the violation and the circumstances surrounding the incident. The number of officers involved, their names, the exact amount of time each officer was involved in the second response (recorded in tenths of an hour) and any injuries or damage to city property should be clearly documented in the report to allow for accurate billing of services provided. The time involved will include arrests, bookings, and report writing time associated with the incident. Time charged will commence from the time each officer involved is dispatched to the call. The "File Copy" for both the first and second responses shall be attached to the report as part of the official record of the event.

Any additional responses after the second response notice has been issued to the same location for the continuation of the gathering should be treated as though it was a second response event as described in previous sections of this Policy.

#### **423.7 DISPERSING THE GATHERING AT THE SECOND RESPONSE**

If the event warrants a second response enforcement, it may also be considered an unlawful assembly. Any additional enforcement of disturbance and unlawful assembly laws will be up to the discretion of the officers involved. The event itself should not typically be allowed to continue once a determination to enforce this ordinance has been made.

#### **423.8 BILLING FOR SERVICES RENDERED**

When the person(s) responsible for the event is in fact served with a notice that he/she will be billed for the police service on the "second response", a copy of the report and copies of the first and second notice forms shall be forwarded to Administration.



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## Rapid Deployment Team 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:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Nothing in this policy shall preclude the use of reasonable force, deadly or otherwise, by members of this department in protecting themselves or others from death or serious injury.

### 424.3 PROCEDURE

- [REDACTED]
- [REDACTED]
- [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]

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## **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 Fullerton Police Department.

#### **426.1.1 ASSISTANCE TO AGENCIES OUTSIDE THE CITY**

When an officer is on-duty and is requested by an allied agency to participate in law enforcement activity in another jurisdiction, he/she shall obtain prior approval from the immediate supervisor or the Watch Commander. If the request is of an emergency nature, the officer shall notify the Communications Center before responding and thereafter notify a supervisor as soon as practical.

#### **426.1.2 LAW ENFORCEMENT ACTIVITY OUTSIDE THE CITY**

Any on-duty officer, who engages in law enforcement activities of any type outside the immediate jurisdiction of the Fullerton shall notify his or her supervisor or the Watch Commander at the earliest possible opportunity. Any off-duty officer who engages in any law enforcement activities, regardless of jurisdiction shall notify the Watch Commander as soon as practical.

The supervisor shall determine if a case report or other documentation of the officer's activity is required. The report or other documentation shall be forwarded to the officer's Division Commander.

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## Immigration Violations

### 428.1 PURPOSE AND SCOPE

The immigration status of individuals alone is generally not a matter for police action. It is incumbent upon all employees of this department to make a personal commitment to equal enforcement of the law and equal service to the public regardless of immigration status. Confidence in this commitment will increase the effectiveness of the Department in protecting and serving the entire community.

### 428.2 DEPARTMENT POLICY

The U.S. Immigration and Customs Enforcement (ICE) has primary jurisdiction for enforcement of the provisions of Title 8, United States Code dealing with illegal entry. When assisting ICE at its specific request, or when suspected criminal violations are discovered as a result of inquiry or investigation based on probable cause originating from activities other than the isolated violations of Title 8, U.S.C., §§ 1304, 1324, 1325 and 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 Fullerton 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 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.

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### *Immigration Violations*

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#### **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

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.

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### *Immigration Violations*

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#### **428.4 CONSIDERATIONS PRIOR TO REPORTING TO ICE**

The Fullerton 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 (Title 8 U.S.C. §1373 and 8 U.S.C. § 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) or 8 USC § 1101(a)(15)(T)). A declaration/certification for a U-Visa/T-Visa from the U.S. Citizenship and Immigration Services must 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 a supplemental report 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 at <http://www.uscis.gov/portal/site/uscis>.
- (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 certification in the case file.

##### **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 the Communications Center.

#### **430.1.2 ELECTRICAL LINES**

City Public Works does not maintain electrical lines to street light poles. When a power line poses a hazard, an officer should be dispatched to protect against personal injury or property damage that might be caused by power lines. The Electric Company or Public Works should be promptly notified, as appropriate.

#### **430.1.3 RESERVOIRS, PUMPS, WELLS, ETC.**

Public Works maintains the reservoirs and public water equipment, as well as several underpass and other street drainage pumps. In the event of flooding or equipment malfunctions, emergency personnel should be contacted as soon as possible.

#### **430.1.4 EMERGENCY NUMBERS**

A current list of emergency personnel who are to be called for municipal utility emergencies is maintained by the Communications Center.

### **430.2 TRAFFIC SIGNAL MAINTENANCE**

The City of Fullerton contracts with a private maintenance company to furnish maintenance for all traffic signals within the City, other than those maintained by the State of California.

#### **430.2.1 OFFICER'S RESPONSIBILITY**

Upon observing a damaged or malfunctioning signal, the officer will advise the Communications Center of the location and problem with the signal. The dispatcher should make the necessary notification to the proper maintenance agency.

## **Patrol Rifles and Shotguns**

### **432.1 PURPOSE AND SCOPE**

In order to more effectively and accurately address the increasing level of fire power and body armor utilized by criminal suspects, the Fullerton Police Department will make patrol rifles and shotguns available to qualified patrol officers as an additional and more immediate tactical resource.

### **432.2 PATROL RIFLE AND SHOTGUN**

#### **432.2.1 RIFLE DEFINITION**

A patrol rifle is an authorized weapon which is owned by the Department and which is made available to properly trained and qualified officers as a supplemental resource to their duty handgun or shotgun. No personally owned rifles may be carried for patrol duty unless pre-approved in writing by the Chief of Police and the department armorer.

#### **432.2.2 SHOTGUN DEFINITION**

A patrol shotgun is an authorized weapon which is owned by the Department and which is made available to properly trained and qualified officers as a supplemental resource to their duty handgun. No personally owned shotguns may be carried for patrol duty unless pre-approved in writing by the Chief of Police and the Department armorer.

### **432.3 SPECIFICATIONS**

Only weapons and ammunition that meet agency authorized specifications, approved by the Chief of Police, and issued by the Department may be used by officers in their law enforcement responsibilities.

- The authorized patrol rifle issued by the Department is the Ruger Mini 14 Law Enforcement Model.
- The authorized patrol shotgun is the Remington Model 870 pump action shotgun.

#### **432.3.1 PATROL RIFLE AND SHOTGUN AMMUNITION**

Only ammunition authorized for the patrol rifle and shotgun is that which has been issued by the Department.

- Patrol Rifle ammunition will consist of a quality factory load in a .223 caliber.
- Patrol Shotgun ammunition will consist of a quality factory load in a 12 gauge .00 buck round.

### **432.4 RIFLE AND SHOTGUN MAINTENANCE**

- (a) Primary responsibility for maintenance of patrol rifles and shotguns shall fall on the Rangemaster or armorer who shall inspect and service each patrol rifle on a semi-annual basis.
- (b) Each patrol officer carrying a patrol rifle may be required to field strip and clean an assigned patrol rifle or shotgun as needed.



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### *Patrol Rifles and Shotguns*

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- (c) Each patrol officer shall be responsible for promptly reporting any damage or malfunction of an assigned patrol rifle or shotgun.
- (d) Each patrol rifle and shotgun shall be subject to inspection by a supervisor, the Rangemaster or Armorer at any time.
- (e) No modification shall be made to any patrol rifle or shotgun without prior written authorization from the Rangemaster or armorer.

#### **432.5 TRAINING**

Officers shall not carry or utilize the patrol rifle or shotgun unless they have successfully completed departmental training. For patrol rifles, this training shall consist of an initial 20-hour patrol rifle user's course and qualification score with a certified patrol rifle instructor. Officers shall thereafter be required to successfully complete quarterly training and qualification conducted by a certified patrol rifle instructor.

Any officer who fails to qualify or who fails to successfully complete two or more department sanctioned training/qualification sessions within a calendar year will no longer be authorized to carry the patrol rifle or shotgun without successfully passing the qualification course. In the case of the rifle qualification, the officer must also successfully retake the POST certified initial patrol officers user's course and qualification.

#### **432.6 DEPLOYMENT OF PATROL RIFLE OR SHOTGUN**

Officers may deploy the patrol rifle or shotgun in any circumstance where the officer can articulate a reasonable expectation that the rifle or shotgun may be needed. Examples of some general guidelines for deploying the patrol rifle or shotgun 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 that 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) When authorized or requested by a supervisor

#### **432.7 DISCHARGE OF THE PATROL RIFLE OR SHOTGUN**

The discharge of the patrol rifle or shotgun shall be governed by the Department's Deadly Force Policy, Policy Manual § 300.

#### **432.8 PATROL READY**

Any qualified officer carrying a patrol rifle or shotgun in the field shall maintain the weapon in a patrol ready condition until deployed. Patrol rifles or shotguns removed from the vehicles or equipment storage room shall be loaded and unloaded in the unit parking lot, outside of the vehicles and utilize the clearing barrels provided.

##### **432.8.1 PATROL RIFLE**

A rifle is considered "patrol ready" when it has been inspected by the assigned officer prior to going into service and meets the following conditions:

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- (a) There is no round in the chamber
- (b) The rifle is on "safe"
- (c) There is a loaded magazine in the rifle with 18 rounds
- (d) The rifle is stored in the locked patrol vehicle's rifle rack or trunk

#### **432.8.2 PATROL SHOTGUN**

A shotgun is considered "patrol ready" when it has been inspected by the assigned officer prior to going into service and meets the following conditions:

- (a) There is no round in the chamber
- (b) The shotgun is on "safe"
- (c) The magazine is loaded with 6 shotgun rounds
- (d) The shotgun is stored in the locked patrol vehicle's shotgun rack

#### **432.9 RIFLE STORAGE**

When not in use, patrol rifles and shotguns will be stored in the weapons lockers within the Patrol Equipment Room.

## 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 THE COMMUNICATIONS CENTER RESPONSIBILITIES**

Dispatchers are responsible to make notifications as directed once an aircraft accident has been reported. The notifications will vary depending on the type of accident, extent of injuries or damage, and the type of aircraft involved. Generally, the dispatcher will need to notify the following agencies or individuals when an aircraft accident has occurred.

- (a) Fire Department
- (b) The affected airport tower
- (c) Closest military base if a military aircraft is involved
- (d) Ambulances or other assistance as required

When an aircraft accident is reported to the Police Department by the airport tower personnel the dispatcher receiving such information should verify that the tower personnel will contact the Federal Aviation Administration (FAA) Flight Standards District Office and the National Transportation Safety Board (NTSB). In the event that airport personnel are not involved, the dispatcher should notify the FAA and the NTSB.

#### **434.2.4 TECHNICAL SERVICES MANAGER RESPONSIBILITIES**

The Technical Services 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 Uniform Division Commander and 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

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Information released to the press regarding any aircraft accident should be handled by the Department Press Information Officer or in accordance with existing policy.

#### **434.3 DOCUMENTATION**

- (a) Any aircraft accident (crash) within the City, regardless of whether injuries or deaths occur, shall be documented.
- (b) Any aircraft accident that involves the city airport, which occurs outside the city limits of Fullerton, shall be documented, if Department personnel provide assistance.
- (c) Once approved, a copy of the report taken shall be forwarded to the Uniform Division Commander and the City of Fullerton Airport Manager.

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## Field Training Officer Program

### 436.1 PURPOSE AND SCOPE

The Field Training Officer Program is intended to provide a standardized program to facilitate the officer's transition from the academic setting to the actual performance of general law enforcement duties of the Fullerton Police Department.

It is the policy of this department to assign all new police officers to a structured Field Training Officer Program that is designed to prepare the new officer to perform in a patrol assignment, and possessing all skills needed to operate in a safe, productive and professional manner.

### 436.2 FIELD TRAINING OFFICER - SELECTION AND TRAINING

The Field Training Officer (FTO) is an experienced officer trained in the art of supervising, training and evaluating entry level and lateral police officers in the application of their previously acquired knowledge and skills.

#### 436.2.1 SELECTION PROCESS

FTO's will be selected based on the following requirements:

- (a) Desire to be an FTO
- (b) Minimum of three years of patrol experience, one of which shall be with this department
- (c) Demonstrated ability as a positive role model
- (d) Participate and pass an internal oral interview selection process
- (e) Letter of recommendation by their immediate supervisor
- (f) Possess a POST Basic certificate

Whenever an opening for a FTO occurs, all applicants shall submit a letter of interest (FPD 224.1), through their immediate supervisor, to the Uniform Division Commander.

The Program Coordinator, with the Division Commander's approval, will select the most qualified personnel for a FTO assignment. That recommendation will be taken to Staff for final approval.

#### 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 any assigned training of new or lateral officers.

All FTO's must complete a 24-hour Field Training Officer update course every three years while assigned to the position of FTO.

### 436.3 FIELD TRAINING OFFICER PROGRAM SUPERVISOR

The FTO Program supervisor should be selected from the rank of sergeant or above by the Uniform Division Commander or a designee and should possess, or be eligible to receive, a POST Supervisory Certificate.

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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
- (f) Monitor overall FTO Program
- (g) Maintain liaison with FTO coordinators of other agencies
- (h) Maintain liaison with academy staff on recruit performance during the academy
- (i) Develop ongoing training for FTOs

The FTO Program supervisor will be required to successfully complete a POST approved Field Training Administrator's Course within one year of appointment to this position (11 CCR § 1004(c)).

#### **436.4 TRAINEE DEFINED**

Any entry level or lateral police officer newly appointed to the Fullerton 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 Fullerton 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 Fullerton Police Department.

#### **436.6 EVALUATIONS**

Evaluations are an important component of the training process and shall be completed as outlined below.

##### **436.6.1 FIELD TRAINING OFFICER**

The FTO will be responsible for the following:

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- (a) Complete and submit a written evaluation on the performance of his/her assigned trainee to the FTO Coordinator on a daily basis.
- (b) Review the Daily Trainee Performance Evaluations with the trainee each day.
- (c) Complete a detailed end-of-phase performance evaluation on his/her assigned trainee at the end of each phase of training.
- (d) Sign off all completed topics contained in the Field Training Manual, noting the method(s) of learning and evaluating the performance of his/her assigned trainee.

#### **436.6.2 IMMEDIATE SUPERVISOR**

The immediate supervisor shall review and approve the Daily 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 submit a confidential performance evaluation on each of their FTOs and on the Field Training Program.

#### **436.7 DOCUMENTATION**

All documentation of the Field Training Program will be retained in the 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



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## Obtaining Helicopter Assistance

### 438.1 PURPOSE AND SCOPE

The use of a police helicopter can be invaluable in certain situations. This policy specifies potential situations where the use of a helicopter may be requested and the responsibilities for making a request.

### 438.2 REQUEST FOR HELICOPTER ASSISTANCE

If a supervisor or officer in charge of an incident determines that the use of a helicopter would be beneficial, a request to obtain helicopter assistance may be made.

#### 438.2.1 REQUEST FOR ASSISTANCE FROM ANOTHER AGENCY

After consideration and approval of the request for a helicopter, the Watch Commander, or his/her designee, will call the closest agency having helicopter support available. The Watch Commander on duty will apprise that agency of the specific details of the incident prompting the request.

#### 438.2.2 CIRCUMSTANCES UNDER WHICH AID MAY BE REQUESTED

Police helicopters may be requested under any of the following conditions:

- (a) When the helicopter is activated under existing mutual aid agreements
- (b) Whenever the safety of law enforcement personnel is in jeopardy and the presence of the helicopters may reduce such hazard
- (c) When the use of the helicopters will aid in the capture of a suspected fleeing felon whose continued freedom represents an ongoing threat to the community
- (d) When a helicopter is needed to locate a person who has strayed or is lost and whose continued absence constitutes a serious health or safety hazard
- (e) Vehicle pursuits

While it is recognized that the availability of helicopter support will generally provide valuable assistance to ground personnel, the presence of a helicopter will rarely replace the need for officers on the ground.

## **Detentions And Photographing 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 Fullerton 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 Technical Services 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 Technical Services Bureau in a separate non-booking photograph file in alphabetical order.

#### **440.7.1 PURGING THE FIELD PHOTO FILE**

The Technical Services Manager will be responsible for ensuring that photographs maintained by the Technical Services 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 Fullerton Police Department and the booking file remains in the Technical Services 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.

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A meeting for the review of the status of any non-arrest photograph/FI is not intended to be a formal hearing, but simply an informal opportunity for the individual to meet with the Chief of Police or his/her designee to discuss the matter.

After carefully considering the information available, the Chief of Police or designee will determine, generally within 30 days of the original meeting, whether the photograph/FI was obtained in accordance with existing law and Fullerton 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 Fullerton 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 Fullerton 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 Fullerton 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.

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## 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 Technical Services 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 Technical Services 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 Technical Services 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.

#### **442.8 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 Lieutenant heads each watch.

### **444.2 DESIGNATION AS ACTING WATCH COMMANDER**

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

## Mobile Digital Computer Use

### 448.1 PURPOSE AND SCOPE

The Mobile Digital Computer (MDC) accesses confidential records from the State of California, Department of Justice and Department of Motor Vehicles databases. Employees using the MDC shall comply with all appropriate federal and state rules and regulations.

#### 448.1.1 MDC ASSIGNMENT

MDC's are assigned to vehicles by their Department issued computer number. The Department issued number is clearly marked on the side of the computer and it corresponds to the unit number of the vehicle it is assigned to. MDC's shall not be moved from one vehicle to another without supervisory approval. Spare MDC's are provided should failures occur. If there is not a spare MDC available the vehicle should not be used unless approval is obtained from a supervisor.

### 448.2 MDC USE

The MDC shall be used for official police communications only. Messages that are of a sexual, racist, or offensive nature, or otherwise critical of any member of the Department are strictly forbidden.

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.

Employees shall activate the MDC system at the beginning of their shift completing all required sign-on screen fields.

All calls dispatched to patrol units should be communicated by voice and MDC unless otherwise authorized by the Watch Commander.

#### 448.2.1 USE WHILE DRIVING

Use of the MDC by the vehicle operator should generally be limited to times when the vehicle is stopped. When the vehicle is in motion, the operator should only attempt to read messages that are likely to contain information that is required for immediate enforcement, investigative or safety needs.

Short transmissions, such as a license plate check, are permitted if it reasonably appears that it can be done safely. In no case shall an operator attempt to send or review lengthy messages while the vehicle is in motion.

#### 448.2.2 DOCUMENTATION OF ACTIVITY

MDC's and voice transmissions are used to record the officer's daily activity. To ensure the most accurate recording of these activities, the following are required:

- (a) All contacts or activity shall be documented at the time of the contact;
- (b) Whenever the activity or contact is initiated by voice, it shall be entered into the Computer Aided Dispatch (CAD) system by a dispatcher;

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- (c) Whenever the activity or contact is not initiated by voice, the officer shall record it on the MDC.

#### **448.2.3 STATUS CHANGES**

All changes in status (e.g., arrival at scene, meal periods, in service) will be transmitted either verbally over the police radio or through the MDC system.

Officers responding to in-progress calls shall advise changes in status verbally over the radio to assist other officers responding to the same incident.

Other changes in status may be entered by depressing the appropriate keys on the MDC's.

#### **448.2.4 EMERGENCY ACTIVATION OF MDC**

If the emergency button is depressed on the MDC, 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 MDC CONSIDERATIONS**

#### **448.3.1 NON-FUNCTIONING MDC**

Whenever possible, officers will not use units with malfunctioning MDC's. Whenever officers must drive a unit in which the MDC is not working, they shall notify the Communications Center. It shall be responsibility of the Communications Center to record all information that will then be transmitted verbally over the police radio.

#### **448.3.2 BOMB CALLS**

When investigating reports of possible bombs, officers will turn off their MDC's. Operating the MDC may cause some devices to detonate.

#### **448.4 MDC SECURITY POLICY**

The purpose of this section is to define standards, procedures, and restrictions for the physical security of Mobile Data Computers (MDC).

The intent of this policy is to protect the Department's mobile technology-based resources (such as data, computer systems, networks, databases, etc.) from unauthorized use and/or malicious attacks that could result in loss of information, damage to critical applications and to comply with Department of Justice security requirements.

It is the responsibility of any employee of the Department who is issued a MDC to ensure that all MDC components remain secure at all times. Based on this, the following shall be observed:

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- (a) MDC's must be locked in on the vehicle cradle if not in the presence of authorized police department personnel.
- (b) Spare MDC's that are not in use must be in the equipment room. Equipment room must be locked at all times.
- (c) MDC's that need repair, are to be brought back to the IS Assistant's office and placed on the shelf marked "B.O. MDC's".
- (d) If IS Assistant is not present, MDC's that need repair must be brought to the watch commander to be placed in the IS Assistant's office.
- (e) During repair period and if IS Assistant is not present, MDC's must be locked in the IS Assistant's office.

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## Use of Audio Recorders

### 450.1 PURPOSE AND SCOPE

The Fullerton Police Department has provided each of its sworn members with access to audio recorders for use while on-duty. These recorders are intended to assist officers in the performance of their duties by providing an unbiased audio record of a contact.

#### 450.1.1 DEFINITIONS

**Original Storage Media** - The any removable memory storage card or permanent internal memory used to temporarily store digital files in the DAR.

**Archival Storage Media** - Is defined as the digital storage device such as a local computer hard drive, computer server hard drive or tape back up.

### 450.2 UNIFORMED OFFICER RESPONSIBILITIES

Each person assigned a DAR will maintain the equipment while in her or his possession. The DAR will be carried upon the person in a manner that will allow for easy operation without impairing the capabilities of the equipment. Prior to going into service, each DAR user will check the equipment to ensure it is working properly. The DAR user shall record a test sample at the beginning of their duty day by recording their name and the date and time of the recording.

The DAR user shall download the contents of the original storage media onto a designated computer for storage at the end of each duty day. The download software is programmed to automatically delete all files from the original storage media once the download is complete. The DAR user shall verify that the files have been deleted once the download is completed. If the files have not been deleted after download, the DAR user shall manually delete the files on the original storage media in preparation for the next shift.

On rare occasions it may be necessary to delete files from the original storage media prior to them being downloaded to the archival storage media at the end of the shift. Prior approval shall be obtained from the Watch Commander prior to deleting any files from the original storage prior to it being downloaded to the archival storage media.

### 450.3 ACTIVATION OF THE AUDIO RECORDER

Penal Code § 632 prohibits any individual from surreptitiously recording any conversation in which any party to the conversation has a reasonable belief that the conversation was private or confidential, however Penal Code § 633 expressly exempts law enforcement from this prohibition during the course of a criminal investigation.

- (a) No member of this department may surreptitiously record a conversation of any other member of this department without the expressed knowledge and consent of all parties. Nothing in this section is intended to interfere with an officer's right to openly record any interrogation pursuant to Government Code § 3303(g).
- (b) Any member of this department may surreptitiously record any conversation during the course of a criminal investigation in which the officer reasonably believes that such a recording will be beneficial to the investigation.

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1. For the purpose of this policy, any officer contacting an individual suspected of violating any law or during the course of any official law enforcement related activity shall be presumed to be engaged in a criminal investigation. This presumption shall not apply to contacts with other employees conducted solely for administrative purposes.
  2. For the purpose of this policy, it shall further be presumed that any individual contacted by a uniformed officer wearing a conspicuously mounted audio recorder will have knowledge that such a contact is being recorded.
- (c) Members of the Department are encouraged to activate their recorders at any time that the officer reasonably believes that a recording of an on-duty contact with a member of the public may be of future benefit.
1. At no time should an officer jeopardize his/her safety in order to activate a recorder or change the recording media.
  2. Officers are prohibited from utilizing department recorders and recording media for personal use.

#### **450.3.1 REQUIRED ACTIVATION OF AUDIO RECORDERS (DAR)**

There are many situations where the use of the DAR is appropriate. This policy is not intended to describe every possible situation where use of the equipment may be appropriate. Officers shall activate the DAR any time they feel its use would be appropriate and/or valuable to document an incident. The following are situations that require the use of the DAR to obtain a recording:

- (a) All field contacts and calls for service. Recordings shall remain in the record position throughout the entire contact or until otherwise directed by a supervisor.
- (b) All self-initiated activity in which an officer would normally notify dispatch.
- (c) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require taping.

Once the DAR is activated, it shall remain on and shall not be turned off until the incident has concluded. For purposes of this section, conclusion of an incident has occurred when all citations have been issued, all arrests have been made, arrestees have been removed from the scene or situation, and all witnesses, victims, etc. have been interviewed. The DAR shall be activated when transporting all persons, including prisoners, and shall remain on until the transportation is completed. Recording may cease if an officer is simply waiting for a tow truck or a family member to arrive or other similar situations.

Communication between Law Enforcement Personnel outside the presence of any member of the public need not be recorded; provided, however, the DAR shall be immediately reactivated upon any public contact.

#### **450.3.2 WHEN ACTIVATION IS NOT REQUIRED**

Activation of the DAR is not required when exchanging information with other officers when not in the immediate presence of a potential public contact or during breaks, lunch periods, when not in service, or when in service but not in contact with other people. As an example, there is no expectation of activation where the officer is approached by a citizen requesting directions, etc. Activation of the DAR is not required during Department approved Ride-Alongs. Officers shall not secretly record police personnel without their permission.



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Officers working undercover or Detectives conducting follow up interviews may use discretion as to when to record conversations while performing in these capacities.

#### **450.4 RETENTION OF RECORDING MEDIA**

At any time that an officer records any portion of a contact which the officer reasonably believes constitutes evidence in a criminal case; the officer shall record the related case number and book the recording media into evidence or download the file in accordance with current procedure for storing digital files.

- (a) The officer shall further note in any related report that the recording has been placed into evidence.
- (b) Recording media placed into evidence shall be retained through the final disposition of the related criminal case.

##### **450.4.1 NON-CRIMINAL MATTER**

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), the officer may book the recording media into safekeeping or download the file in accordance with current procedure for storing digital files.

- (a) Under such circumstances, the officer shall notify a supervisor of the existence of the recording as soon as practicable.
- (b) Recording media which have been placed into safekeeping shall be retained in accordance with the City of Fullerton Retention Schedule or until the related matter has been closed (e.g., internal investigation, civil litigation).

Once any recording medium has been filled, the officer shall place it into safekeeping or download the file in accordance with current procedure for storing digital files where it shall be retained in accordance with the City of Fullerton Retention Schedule or unless utilized in a specific case.

#### **450.5 REVIEW OF RECORDED MEDIA FILES**

Recorded files may be reviewed in any of the following situations:

- (a) By Department personnel who wish to review their own recordings
- (b) By a Department or District Attorney Investigator, or supervisor who is participating in an official investigation, such as a personnel complaint, administrative inquiry or a criminal investigation.
- (c) By random audits, a supervisor may monitor an officer's performance as part of a routine evaluation process to identify negative and positive performance or potential training issues that may have been captured by audio recordings.
- (d) By court personnel through the subpoena process.
- (e) By media personnel, with authorization of the Chief of Police or in his/her absence, a Division Commander.
- (f) Audio recordings may be played for the purposes of training value. If an involved officer objects to the playing of an audio recording, his/her objection will be submitted to Staff to determine if the training value outweighs the officer's objection to have others review the audio file. In no event shall any recording be used or reviewed for the purpose of officer ridicule or embarrassing an employee.
- (g) By City of Fullerton Risk Management for purposes of claims investigations.

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#### **450.6 DOCUMENTING DAR USE**

Any incident that was recorded by DAR shall be documented in the officer's report. If a citation was issued or a field interview card was completed, a notation shall be placed on the back of the records copy that the incident was recorded.

#### **450.7 DAR RECORDINGS STORAGE & INTEGRITY**

After DAR recordings have been downloaded to the designated computer by the DAR user, they shall be stored in a folder accessible only by the program administrator or his/her designee. Original files created by the download process shall be stored in this folder until such time as the data is transferred to archival storage media.

No files shall be transferred from the archival storage media onto any third party media storage device without prior approval from the Watch Commander. Examples of a third party media storage device include but are not limited to: Compact Disc; floppy disk; portable hard drives; or any other electronic media device.

## Medical Marijuana

### 452.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of this department with guidelines for handling and distinguishing between claims of medical marijuana use under California's Compassionate Use Act (Health & Safety Code § 11362.5) and criminal narcotics violations.

### 452.2 ENFORCEMENT

Although federal law does not currently permit possession of marijuana for medical use, California has created a limited defense (i.e. no penalty) for certain qualified individuals possessing small quantities of marijuana for medical use under strict conditions.

- (a) Notwithstanding California Medical Marijuana laws:
1. California does not provide any exception for individuals driving under the influence of marijuana. All such cases should be handled with appropriate enforcement action (e.g., Vehicle Code § 23152, et seq.).
  2. Medical marijuana may not be smoked outside of a residence within 1000 feet of a school, recreation center, youth center or in a vehicle or boat (Health & Safety Code § 11362.79).
  3. No probationer or parolee may possess medical marijuana unless such possession is authorized in writing by court order or parole conditions (Health & Safety Code § 11362.795).
- (b) Possession, cultivation and sales of marijuana in quantities beyond that which might reasonably be construed as for personal use should be handled as criminal cases with appropriate enforcement action taken pursuant to Health & Safety Code §§ 11357, 11358 and 11359.
1. The amount of marijuana possessed must be consistent with the medical needs of the qualified patient or person with valid ID card.
  2. The quantity and form of marijuana must also be reasonably related to the patient's current medical needs.
    - (a) Absent a verifiable doctor's recommendation to exceed allotted quantities, a qualified patient or primary caregiver may possess no more than eight ounces of dried marijuana per qualified patient, or;
    - (b) Maintain no more than six mature, or twelve immature marijuana plants per qualified patient (Health & Safety Code § 11362.77(a)(b)).
- (c) In any case involving the possession or cultivation of marijuana, the handling officer should inquire whether the individual is claiming that the marijuana is for medicinal purposes.
1. If no such claim is made, the officer should proceed with normal enforcement action.
  2. If a claim of medicinal use is made, the officer should proceed as outlined below.

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#### **452.3 MEDICINAL USE CLAIMS**

In order to qualify for a medicinal marijuana defense, any individual making such a claim must affirmatively establish the following information. If the individual cannot or will not provide all of the required information, the officer should note such fact in any related report and proceed with appropriate enforcement action.

##### **452.3.1 PATIENTS**

(a) An individual may establish his/her status as a qualified patient by presenting a current and valid state issued identification card issued by the Department of Health (Health & Safety Code § 11362.735). Such identification cards shall contain the following information:

1. A unique serial number.
2. An expiration date.
3. The name and telephone number of the county health department approving the application.
4. A 24-hour toll-free number for law enforcement to verify the validity of the card (Verification can be checked at [www.calmmp.ca.gov](http://www.calmmp.ca.gov)).
5. A photograph of the cardholder.

No officer shall refuse to accept a properly issued identification card unless the officer has reasonable cause to believe that the information contained in the card is false or that the card is being used fraudulently (Health & Safety Code § 11362.78).

(b) If the individual does not possess a valid state issued identification card, the individual claiming status as a qualified patient must minimally provide the following information:

1. Satisfactory identification establishing current residency in California.
2. A current and valid medical marijuana ID card from a local governmental agency (e.g., county) or a current and verifiable, written recommendation for marijuana from a California licensed physician.
3. In the absence of a valid identification card, the handling officer should also obtain a written waiver from the involved individual authorizing the release of all related medical records.

##### **452.3.2 PRIMARY CAREGIVERS**

Primary caregivers are subject to the following requirements (Health & Safety Code 11362.765):

- (a) A primary caregiver is not authorized to use, sell, or possess marijuana for sale.
- (b) A primary caregiver must provide sufficient proof that he/she is responsible for the patient's housing, health and/or safety.
- (c) A primary caregiver must provide sufficient proof of personal knowledge of the patient's medical needs and the details of the attending physician's recommendation.
- (d) Upon proof that a qualified primary caregiver is caring for more than one qualified patient, he/she may aggregate possession and cultivation limits. For example, a primary caregiver caring for three qualified patients may possess 24 ounces (eight ounces per patient) of marijuana (Health & Safety Code § 11362.7(d)(2)).
- (e) While qualified patients and primary caregivers may be permitted to collectively or cooperatively associate to cultivate medical marijuana, such individuals must strictly

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adhere to all non-profit and local business requirements (Health & Safety Code § 11362.775).

#### **452.3.3 CLAIM REQUIREMENTS MET**

Once the handling officer is satisfied that the individual making a medicinal marijuana use claim meets the above requirements, the officer should proceed as follows:

- (a) A small sample of the involved marijuana should be seized and booked into evidence.
- (b) Any allowable amount of marijuana left in possession of a qualified individual for the limited purpose of medicinal use should be described and noted in the related report.
- (c) If the handling officer has already taken the individual into custody (vs. detention only) prior to establishing qualification for a potential medicinal use defense and there are no other criminal charges pending or being investigated, the individual should be released pursuant to Penal Code § 849(b).
- (d) If the individual remains in custody on any charge(s), the individual will not be permitted to use marijuana while being detained or held in jail or other law enforcement facility (Health & Safety Code § 11362.785(c)).
- (e) The handling officer shall complete a timely report which will be submitted to the District Attorney with all of the aforementioned documentation for a determination of whether the medicinal marijuana defense will apply.

#### **452.3.4 RETURN OF MARIJUANA**

Regardless of the prosecution status or disposition of any related criminal case, this department will not be responsible for the return of any marijuana seized as evidence except as may be required by a valid court order (Cal. Health and Safety Code § 11473.5 and 21 U.S.C. § 885(d)).

## 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.

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]



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### *Foot Pursuit Policy*

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[REDACTED]

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.

[REDACTED]

When a foot pursuit terminates, the officer will notify the Communications Center 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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### *Foot Pursuit Policy*

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#### **458.4.4 THE COMMUNICATIONS CENTER 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. The Communications Center 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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## **Automated License Plate Readers (ALPRs)**

### **462.1 PURPOSE AND SCOPE**

Automated License Plate Reader (ALPR) technology, also known as License Plate Recognition, provides automated detection of license plates. ALPRs are used by the Fullerton Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. ALPRs may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

### **462.2 ADMINISTRATION OF ALPR DATA**

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access shall be managed by the Services Division Commander. The Services Division Commander will assign personnel under his/her command to administer the day-to-day operation of the ALPR equipment and data.

### **462.3 ALPR OPERATION**

Use of an ALPR is restricted to the purposes outlined below. Department personnel shall not use, or allow others to use the equipment or database records for any unauthorized purpose.

- (a) An ALPR shall only be used for official and legitimate law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so.
- (f) If practicable, the officer should verify an ALPR response through CLETS before taking enforcement action that is based solely on an ALPR alert.

### **462.4 ALPR DATA COLLECTION AND RETENTION**

All data and images gathered by an ALPR are for the official use of the Fullerton Police Department and because such data may contain confidential CLETS information, it is not open to public review. ALPR information gathered and retained by this department may be used and shared with prosecutors or others only as permitted by law.

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### *Automated License Plate Readers (ALPRs)*

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The Services supervisor is responsible to ensure proper collection and retention of ALPR data, and for transferring ALPR data stored in department vehicles to the department server on a regular basis, not to exceed 30 days between transfers.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6), and thereafter may be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

#### **462.5 ACCOUNTABILITY AND SAFEGUARDS**

All saved data will be closely safeguarded and protected by both procedural and technological means. The Fullerton Police Department will observe the following safeguards regarding access to and use of stored data:

- (a) All non-law enforcement requests for access to stored ALPR data shall be referred to the Technical Services Manager and processed in accordance with applicable law.
- (b) All ALPR data downloaded to the mobile workstation and server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time.
- (c) Persons approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (d) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies at any time for legitimate law enforcement purposes.
- (e) ALPR system audits should be conducted on a regular basis.

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## Homeless Persons

### 464.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that personnel understand the needs and rights of the homeless and to establish procedures to guide officers during all contacts with the homeless, whether consensual or for enforcement purposes. The Fullerton Police Department recognizes that members of the homeless community are often in need of special protection and services. The Fullerton Police Department will address these needs in balance with the overall mission of this department. Therefore, officers will consider the following when serving the homeless community.

#### 464.1.1 POLICY

It is the policy of the Fullerton Police Department to provide law enforcement services to all members of the community, while protecting the rights, dignity and private property of the homeless. Homelessness is not a crime and members of this department will not use homelessness solely as a basis for detention or law enforcement action.

#### 464.2 HOMELESS COMMUNITY LIAISON

The Chief of Police will designate a member of this department to act as the Homeless Liaison Officer. The responsibilities of the Homeless Liaison Officer include the following:

- (a) Maintain and make available to all department employees a list of assistance programs and other resources that are available to the homeless.
- (b) Meet with social services and representatives of other organizations that render assistance to the homeless.
- (c) Maintain a list of the areas within and near this jurisdiction that are used as frequent homeless encampments.
- (d) Remain abreast of laws dealing with the removal and/or destruction of the personal property of the homeless. This will include the following:
  1. Proper posting of notices of trespass and clean-up operations.
  2. Proper retention of property after clean-up, to include procedures for owners to reclaim their property in accordance with Policy § 804 and other established procedures.
- (e) Be present during any clean-up operation conducted by this department involving the removal of personal property of the homeless to ensure that the rights of the homeless are not violated.
- (f) Be present during any clean-up operation conducted by this department involving the removal of personal property of the homeless to ensure that the rights of the homeless are not violated.

#### 464.3 FIELD CONTACTS

Officers are encouraged to contact the homeless for purposes of rendering aid, support and for community-oriented policing purposes. Nothing in this policy is meant to dissuade an officer from taking reasonable enforcement action when facts support a reasonable suspicion of criminal activity. However, when encountering a homeless person who has committed a non-violent misdemeanor and continued freedom is not likely to result in a

# Fullerton Police Department

## Policy Manual

### *Homeless Persons*

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continuation of the offense or a breach of the peace, officers are encouraged to consider long-term solutions to problems that may relate to the homeless, such as shelter referrals and counseling in lieu of physical arrest.

Officers should provide homeless persons with resource and assistance information whenever it is reasonably apparent that such services may be appropriate.

#### **464.3.1 OTHER CONSIDERATIONS**

Homeless members of the community will receive the same level and quality of service provided to other members of the community. The fact that a victim or witness is homeless can, however, require special considerations for a successful investigation and prosecution. Officers should consider the following when handling investigations involving homeless victims, witnesses or suspects:

- (a) Document alternate contact information. This may include obtaining addresses and phone numbers of relatives and friends.
- (b) Document places the homeless person may frequent.
- (c) Provide homeless victims with victim/witness resources when appropriate.
- (d) Obtain statements from all available witnesses in the event that a homeless victim is unavailable for a court appearance.
- (e) Consider whether the person may be a dependent adult or elder, and if so, proceed in accordance with Policy § 326.
- (f) Arrange for transportation for investigation-related matters, such as medical exams and court appearances.
- (g) Consider whether a crime should be reported and submitted for prosecution, even when a homeless victim indicates that he/she does not desire prosecution.

#### **464.4 PERSONAL PROPERTY**

The personal property of homeless persons must not be treated differently than the property of other members of the public. Officers should use reasonable care when handling, collecting and retaining the personal property of homeless persons and should not destroy or discard the personal property of a homeless person.

When a homeless person is arrested or otherwise removed from a public place, officers should make reasonable accommodations to permit the person to lawfully secure his/her personal property. Otherwise, the personal property should be collected for safekeeping. If the arrestee has more personal property than can reasonably be collected and transported by the officer, a supervisor should be consulted. The property should be photographed and measures should be taken to remove or secure the property. It will be the supervisor's responsibility to coordinate the removal and safekeeping of the property.

Officers should not conduct or assist in clean-up operations of belongings that reasonably appear to be the property of homeless persons without the prior authorization of a supervisor or the department Homeless Liaison Officer. When practicable, requests by the public for clean-up of a homeless encampment should be referred to the Homeless Liaison Officer.

Officers who encounter unattended encampments, bedding or other personal property in public areas that reasonably appears to belong to a homeless person should not remove or destroy such property and should inform the department Homeless Liaison Officer if such property appears to involve a trespass, blight to the community or is the subject of a

# Fullerton Police Department

## Policy Manual

### *Homeless Persons*

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complaint. It will be the responsibility of the Homeless Liaison Officer to address the matter in a timely fashion.

#### **464.5 MENTAL ILLNESS AND MENTAL IMPAIRMENT**

Some homeless persons may suffer from a mental illness or a mental impairment. Officers shall not detain a homeless person under a mental illness commitment unless facts and circumstances warrant such a detention (See Policy § 418).

When a mental illness hold is not warranted, the contacting officer should provide the homeless person with contact information for mental health assistance as appropriate. In these circumstances, officers may provide transportation to a mental health specialist if requested by the person and approved by a supervisor.

#### **464.6 ECOLOGICAL ISSUES**

Sometimes homeless encampments can impact the ecology and natural resources of the community and may involve criminal offenses beyond mere littering. Officers are encouraged to notify other appropriate agencies or departments when a significant impact to the environment has or is likely to occur. Significant impacts to the environment may warrant a crime report, investigation, supporting photographs and supervisor notification.

Fullerton Police Department  
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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 Fullerton 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
- By request and evaluation of need by a Bureau Supervisor.

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.



# Fullerton Police Department

## Policy Manual

### *Traffic Function and Responsibility*

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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) Point out printed instructions on the back of violator's copy for their future reference
- (d) When asked, officers may inform the motorist about entering a plea and explain the process of paying the fine by mail or at the court. Discussing the costs of the fine, or penalties likely to be imposed by the Court, should be avoided and deferred to 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.

#### **500.5 HIGH-VISIBILITY VESTS**

The Department has provided ANSI Class II high-visibility vests to reduce the danger to employees who may be exposed to hazards presented by passing traffic, construction vehicles and disaster recovery equipment (8 CCR § 1598).

Although intended primarily for use while performing traffic related assignments, high-visibility vests should be worn at any time increased visibility would improve the safety or efficiency of the employee.

##### **500.5.1 REQUIRED USE**

Except when working in a potentially adversarial or confrontational role, such as during vehicle stops, high-visibility vests should be worn at any time it is anticipated that an employee will be exposed to the hazards of approaching traffic or construction and recovery

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### *Traffic Function and Responsibility*

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equipment. Examples of when high-visibility vests should be worn include traffic control duties, accident investigations, lane closures and while at disaster scenes, or anytime high visibility is desirable. When emergency conditions preclude the immediate donning of the vest, officers should retrieve and wear the vest as soon as conditions reasonably permit. Use of the vests shall also be mandatory when directed by a supervisor.

Vests maintained in the investigation units may be used any time a plainclothes officer might benefit from being readily identified as a member of law enforcement.

#### **500.5.2 CARE AND STORAGE OF HIGH-VISIBILITY VESTS**

High-visibility vests shall be maintained in the trunk of each patrol and investigation unit and in the side box of each police motorcycle. Each vest should be stored inside the re-sealable plastic bag provided to protect and maintain the vest in a serviceable condition. Before going into service each employee shall ensure a serviceable high-visibility vest is properly stored in the vehicle.

A supply of high-visibility vests will be maintained in the equipment room for replacement of damaged or unserviceable vests. The Services Division Commander should be promptly notified whenever the supply of vests in the equipment room needs replenishing.

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## Motorcycle Training and Operation

### 501.1 PURPOSE AND SCOPE

It is widely recognized that the skills needed to perform motorcycle enforcement duties are perishable if not reinforced with a conscientiously applied training program. It is the goal of the Fullerton Police Department to ensure that each officer assigned to motorcycle duty maintains a minimum standard of proficiency to minimize the risks inherent in motorcycle duty. This policy sets forth the minimum types of training and minimum operational requirements that must be met by any person assigned to motorcycle duty.

### 501.2 TRAINING

#### 501.2.1 PRE-SERVICE TRAINING

Officers shall be in possession of a Driver's License with a motorcycle operator endorsement prior to being appointed to motorcycle duty.

Officers newly appointed to motorcycle duty shall be placed into training status and will work directly with a motorcycle instructor until successful completion of an approved basic motorcycle riding academy. During this period, the officer may continue to commute to and from work on the police motorcycle only with the express approval of the Traffic Bureau Manager.

Pre-service training is designed to prepare an officer newly assigned to motorcycle duty to be able to successfully complete a POST-approved basic motorcycle course.

#### 501.2.2 BASIC MOTORCYCLE SCHOOL PREPARATION

An officer newly assigned to motorcycle duty will be given 80 hours of training on the police motorcycle. Only a motorcycle instructor will be authorized to provide this training, which will consist of, at a minimum, those events mandated by POST to be successfully completed.

#### 501.2.3 BASIC MOTORCYCLE SCHOOL

An officer who has successfully completed pre-service training will attend a POST-approved basic motorcycle school as soon as practical. At no time will an officer be permitted to assume enforcement status on a police motorcycle without successfully completing the basic course.

#### 501.2.4 ENFORCEMENT RIDING PREPARATION

Upon successful completion of the basic course, the officer will be assigned to a motorcycle instructor or designated motor officer for a period of 80 hours of field orientation training. This training period will be evenly divided between Day Shift and Night Shift.

- (a) If the motorcycle instructor determines that the officer is deficient in riding skills, the instructor will submit to the Traffic Sergeant a written recommendation to either (1) extend training, or (2) remove the officer from motorcycle duty. Any such recommendation must meet with the approval of the Traffic Bureau Manager. Any period of extended training shall not exceed 40 hours.
- (b) Officers newly placed on enforcement status shall not use Radar or Lidar to enforce speed violations for their first three months of duty. The purpose of this restriction is

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### *Motorcycle Training and Operation*

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to allow for the strengthening of the skills newly acquired in the basic course before the aggressive riding necessary during Radar/Lidar enforcement.

#### **501.3 IN SERVICE TRAINING**

Generally, each in-service training day will consist of 10 hours of motorcycle skills and related training.

The training site will be selected by a Traffic Sergeant, who will provide advance notice of the training day to all motor officers. The notification will include the date and time, location, and any required equipment.

##### **501.3.1 PROFICIENCY TESTING**

In order to demonstrate that a minimum level of safe riding skills are maintained each motor officer is required to pass a proficiency riding test quarterly.

- (a) All proficiency testing will be documented on a test form completed by a Motorcycle Instructor, and signed by the officer upon review. The Instructor will forward the forms to the Traffic Sergeant for review and approval. The Traffic Sergeant will place a copy of the form in each officer's bureau file, and will forward the original to the Professional Standards Bureau Manager.
- (b) During quarterly training sessions, each officer will be tested in four riding skills events to ensure that a minimum level of riding proficiency is maintained. The test will consist of the following four events:
  1. 30 mph Cone Weave,
  2. 40 mph Decel,
  3. 180 Cone Pattern,
  4. Cone Pattern Three.
- (c) Other events may be incorporated into the training sessions at the discretion of the instructor(s), and will be used to prepare the officer for testing in the mandatory events.
- (d) Each officer will be afforded ten attempts to complete a total of four successful passes in each event. A successful pass is one completed without error. An unsuccessful attempt is one in which any of the following occur:
  1. The rider puts a foot down during an event
  2. A cone is knocked over or a cone is struck but remains standing
  3. The rider drops the motorcycle
  4. The rider rides out of the pattern
  5. The rider is unable to properly maintain clutch/throttle control during an event
  6. Improper speed control
  7. Improper braking (70% - 30%)
  8. Pre Braking

##### **501.3.2 REMEDIATION PROCEDURE**

Any officer who fails to pass the test shall be given a remediation period not to exceed 40 hrs prior to the next quarterly testing day. If the officer successfully completes the test after the remediation period then the officer shall be deemed to have successfully completed that quarterly test.

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### *Motorcycle Training and Operation*

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#### **501.3.3 RE-CERTIFICATION OF SKILLS**

An officer with previous duty as motorcycle officer who is reassigned to motor duty shall be re-certified by a motorcycle instructor and must successfully pass the Riding Proficiency Test. In addition, a motor officer who has been off motorcycle duty for any reason for an extended period of time shall likewise be re-certified by a motorcycle instructor.

#### **501.3.4 REMOVAL FROM MOTORCYCLE DUTY**

In an effort to maintain safe riding skills each officer assigned to motorcycle duty will receive in-service training at least four times per calendar year or about once each quarter. All phases of training must be successfully completed. The inability to successfully complete required training may result in that officer's reassignment to other duties.

- (a) Any officer who fails to successfully pass two consecutive quarterly tests may be recommended for removal from motorcycle riding duty status.
- (b) Any officer riding in a deliberately unsafe manner may be immediately placed on "Non-Riding Status" by the Traffic Manager or Traffic Sergeant and is subject to the disciplinary process.

#### **501.3.5 MOTORCYCLE INSTRUCTORS**

Instructors will be appointed and/or replaced at the sole discretion of the Traffic Bureau Manager and will attend a POST certified Motorcycle Instructor's School. Criteria for selection will include riding skills, job knowledge, work product, communication skills, and instructional ability. Their duties will consist of the following:

- (a) Provide in-service and pre-service training and complete the requisite proficiency evaluations.
- (b) Conduct evaluations of officers that have completed the POST-approved basic course.
- (c) Conduct an on-going review of the training program and make appropriate recommendations.
- (d) Review all traffic collisions involving motor officers for the purpose of recommending additional training, if needed.
- (e) Conduct re-certification training as needed.
- (f) Motor instructors shall successfully complete a POST-approved instructor course before providing training.

#### **501.4 OPERATIONS**

Ultimately, it is the individual officer's responsibility to ensure the proper level of both preventive and scheduled maintenance. Officers should regularly inspect the motorcycle for evidence of any defects. Special attention should be given to any loose parts, electrical connections, tires, drive systems, fluid levels, etc.

#### **501.5 OFFICER RESPONSIBILITIES**

- (a) Each officer is responsible for the cleanliness and professional appearance of the motorcycle.
- (b) Each officer will ensure that scheduled maintenance is performed as specified by the manufacturer. Officers should familiarize themselves with the Owner's Manual for the specific make of motorcycle to which they are assigned.

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### *Motorcycle Training and Operation*

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- (c) Officers will ensure that the motorcycle has proper tire pressure and fluid levels (engine, brake, radiator) before going into service.

## Traffic Collision Reporting

### 502.1 PURPOSE AND SCOPE

The Fullerton Police Department prepares traffic collision reports in compliance with the California Highway Patrol Collision Investigation Manual (CIM) and as a public service makes traffic collision reports available to the community with some exceptions.

### 502.2 RESPONSIBILITY

The Traffic Bureau Manager will be responsible for distribution of the Collision Investigation Manual. The Traffic Bureau Manager 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 this department shall be forwarded to the Traffic Bureau for approval and data entry into the Records Management System. The Traffic Bureau Manager will be responsible for monthly and quarterly reports on traffic collision statistics to be forwarded to the Uniform Division Commander, or other persons as required.

#### 502.3.1 REPORT PREPARATION

All Officers shall complete reports in a timely manner in accordance with Policy §344.1.1

### 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 Commander.

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 Fullerton Police Department resulting in a serious injury or fatality, the Traffic Bureau Manager or the Watch Commander, may notify the California Highway Patrol for assistance.

The term serious injury is defined as any injury that may result in a fatality.

#### 502.4.3 TRAFFIC COLLISIONS WITH OTHER CITY EMPLOYEES OR OFFICIALS

The Traffic Bureau Manager or on-duty Watch Commander may request assistance from the California Highway Patrol for the investigation of any traffic collision involving any City official or employee where a serious injury or fatality has occurred.

# Fullerton Police Department

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### *Traffic Collision Reporting*

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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 COLLISIONS ON ROADWAYS OR HIGHWAYS**

Traffic collision reports shall be taken when they occur on a roadway or highway within the jurisdiction of this department under any of the following circumstances:

- (a) When there is a death or injury to any persons involved in the collision
- (b) When it involves a hit-and-run violation
- (c) When a driver or involved party is cited or arrested for an identifiable Criminal or Vehicle Code violation Code.
- (d) When a report is requested by any involved driver

#### **502.5 NOTIFICATION OF TRAFFIC BUREAU SUPERVISION**

In the event of a serious injury or death related traffic collision, the Watch Commander shall notify the Traffic Bureau Manager to relate the circumstances of the traffic collision and seek assistance from the Traffic Bureau. In the absence of a Traffic Bureau Manager, the Watch Commander or any supervisor may assign an accident investigator or motor officer to investigate the traffic collision.



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## Vehicle Towing Policy

### 510.1 PURPOSE AND SCOPE

This policy provides the procedures for towing a vehicle by or at the direction of the Fullerton 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 Technical Services 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 the Communications Center.

If the owner is incapacitated, or for any reason it is necessary for the Department to assume responsibility for a vehicle involved in a collision, the officer shall request the dispatcher to call the official towing garage for the City of Fullerton. 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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### *Vehicle Towing Policy*

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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 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.

#### **510.2.5 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.

#### **510.2.6 TECHNICAL SERVICES BUREAU RESPONSIBILITY**

Records personnel shall promptly enter pertinent data from the completed storage form (CHP Form 180) into the Stolen Vehicle System and return the form to the Watch Commander for approval (Vehicle Code §§ 22651.5(b), 22851.3(b) and 22854.5).

Approved storage forms shall be promptly placed into the auto-file so that they are immediately available for release or review should inquiries be made.

Within 48 hours, excluding weekends and holidays, of the storage of any such vehicle it shall be the responsibility of the Technical Services 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), 22852(a), and 14602.6(a)(2)). The notice shall include the following (Vehicle Code § 22852(b)):

- (a) The name, address, and telephone number of this Department.
- (b) The location of the place of storage and description of the vehicle, which shall include, if available, the name or make, the manufacturer, the license plate number, and the mileage.
- (c) The authority and purpose for the removal of the vehicle.
- (d) A statement that, in order to receive their post-storage hearing, the owners, or their agents, shall request the hearing in person, writing, or by telephone within 10 days of the date appearing on the notice.

#### **510.3 TOWING SERVICES**

The City of Fullerton periodically selects a firm to act as the official tow service and awards a contract to that firm. This firm will be used in the following situations:

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### *Vehicle Towing Policy*

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- (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 SERVICE**

Upon proper application, the Traffic Bureau may approve qualified towing services to be called when a citizen needs towing but has "no preference" as to which service to call.

A tow service operator seeking designation as an authorized "No Preference" towing service may obtain a copy of the Specifications for Non-Preference Rotating Towing and Storage Services and an application from the Traffic Bureau manager. All completed applications shall be maintained in the office of the Traffic Bureau.

All applicants who are approved as "No Preference" operators shall adhere to the specifications for Non-Preference Rotating Towing and Storage Services during the life of their agreement.

Any complaint alleging a violation of the agreement or other misconduct by a "No Preference" operator shall be referred to the Traffic Bureau for investigation. The Traffic Bureau Manager may periodically review the performance of each authorized "No Preference" operator.

The Police Department will assist citizens by calling any towing company desired. If the citizen has no preference and requests that an officer dispatches a towing company, one of the authorized firms shall be called in rotation.

All officers are specifically prohibited from soliciting for, or recommending any garage or tow service either directly or indirectly.

#### **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.

#### **510.5 SECURITY OF VEHICLES AND PROPERTY**

Unless it would cause an unreasonable delay in the completion of a vehicle impound/storage or create an issue of officer safety, officers should make reasonable accommodations to permit a driver/owner to retrieve small items of value or personal need (e.g., cash, jewelry, cell phone, prescriptions) which are not considered evidence or contraband.

If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft or damage, personnel conducting the search shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property from such hazards.

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### *Vehicle Towing Policy*

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#### **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.

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## Vehicle Impound Hearings

### 512.1 PURPOSE AND SCOPE

This policy establishes a procedure for the requirement to provide vehicle storage or impound hearings pursuant to Vehicle Code § 22852.

### 512.2 STORED OR IMPOUND HEARING

When a vehicle is stored or impounded by any member of the Fullerton Police Department, a hearing will be conducted upon the request of the registered or legal owner of the vehicle or his/her agent (Vehicle Code §§ 22650(a) and 22852(a)).

The hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The hearing officer must be a person other than the person who directed the storage or impound of the vehicle (Vehicle Code § 22852(c)).

#### 512.2.1 HEARING PROCEDURES

The vehicle storage hearing is an informal process to evaluate the validity of an order to store or impound a vehicle. The employee who caused the storage or removal of the vehicle does not need to be present for this hearing.

All requests for a hearing on a stored or impounded vehicle shall be submitted in person, in writing or by telephone within 10 days of the date appearing on the notice (Vehicle Code § 22852(d)). The Traffic Bureau Manager 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 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.

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### *Vehicle Impound Hearings*

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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.

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## **Drunk Driving and Evidence Collection**

### **514.1 PURPOSE AND SCOPE**

This policy explains the procedures to be followed while collecting evidence to establish the blood alcohol level of drivers arrested for driving while intoxicated, unconscious drivers, and unconscious pedestrians involved in traffic collisions because of their intoxicated state.

### **514.2 CHEMICAL TESTING**

When a person is arrested for driving under the influence of an alcoholic beverage, the arresting officer will advise the person that he/she has a choice of whether the chemical test shall be of the breath or blood (Vehicle Code § 23612 (a)(2)(A)). When a person is arrested for driving under the influence of any drug or the combined influence of an alcoholic beverage and any drug, the arresting officer will advise the person that he/she has a choice of whether the test shall be of the blood, breath or urine (Vehicle Code § 23612 (a)(2)(B)).

If the person chooses to submit to a breath test, the officer should also require the person to submit to a blood or urine test if the officer has a clear indication that a blood or urine test will reveal evidence of any drug or the combined influence of an alcoholic beverage and any drug (Vehicle Code § 23612(a)(2)(C)).

Any person who is unable to submit to a chemical test due to any of the following conditions shall not be considered as refusing to comply with the provisions of Vehicle Code § 23612:

- The Department is unable to furnish a selected test.
- There are verifiable medical reasons for noncompliance.
- An attending physician refuses to allow it.

#### **514.2.1 COLLECTING BLOOD EVIDENCE**

Only a certified phlebotomy technician, licensed physician, nurse or other individual authorized by Vehicle Code § 23158(a) may withdraw a blood sample. Whether such evidence is collected at the Department or other location, the withdrawal of the blood sample shall be witnessed by the assigned officer.

When a person cannot submit to a blood test because he/she is a hemophiliac or is using an anticoagulant under the direction of a physician for a heart condition, he or she shall not be required to take a blood test (Vehicle Code § 23612(b) and (c)).

All blood samples shall be booked into evidence for later transfer to the crime laboratory for analysis.

#### **514.2.2 COLLECTING BREATH AS EVIDENCE**

If the arrested person chooses a breath test and it can be accomplished without undue delay, the arrested person shall first be transported to the jail for breath testing preparatory to booking. At the jail, an officer trained in the use of the alcohol breath machine will record the blood alcohol level by obtaining samples of the person's breath.

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,

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### *Drunk Driving and Evidence Collection*

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provide a blood or urine specimen which will be retained to facilitate subsequent verification testing (Vehicle Code § 23614).

#### **514.2.3 COLLECTING URINE AS EVIDENCE**

If the arrested person chooses a urine test, as permitted by law, he/she shall be promptly transported to the jail. Urine evidence collection kits are maintained in the jail. The officer shall follow the directions listed on the instruction sheet accompanying the urine evidence collection kit. If the arrested person's urine is necessarily collected elsewhere, the procedure will remain the same.

Urine samples shall be collected and/or witnessed by an officer or matron of the same gender as the person giving the sample. The person tested shall be given such privacy in the taking of the urine specimen as will ensure the accuracy of the specimen and, at the same time, maintain the dignity of the individual involved (Vehicle Code § 23158(i)).

The urine evidence collection kit shall be marked with the arrestee's name, offense, department, case number and the name of the witnessing officer. The urine evidence collection kit shall then be placed in the evidence refrigerator to await transportation to the crime laboratory.

#### **514.2.4 TESTING OF CONSCIOUS PERSON AT A HOSPITAL**

Most blood, breath and urine tests will be administered at the jail. However, if a timely breath or urine test cannot be administered because the person is transported to a medical facility where such tests cannot be facilitated, the person shall be advised that a blood test will be the only choice available and a blood sample may be taken at the medical facility (Vehicle Code § 23612(a)(3)).

Based on probable cause, the officer should place the conscious person under arrest in the presence of a witnessing officer or medical personnel and advise the attending physician of the intention to collect a sample of the person's blood. Unless the attending physician objects for medical reasons a blood sample will be collected in the prescribed manner.

#### **514.2.5 TESTING OF UNCONSCIOUS PERSON AT A HOSPITAL**

When a person is suspected of driving under the influence of alcohol and/or drugs and the person is unconscious or in a condition rendering him or her incapable of refusal, that person is deemed not to have withdrawn his or her consent and a blood test may be ordered by the arresting officer. The officer shall advise the attending physician of the intention to collect a sample of the person's blood as evidence. If the physician does not object based on medical reasons, the blood will be collected in the prescribed manner.

A person who is dead is deemed not to have withdrawn his or her consent and a test or tests may be administered. In such cases the handling officer should coordinate with the Coroner's Office to ensure that a viable test will be obtained (Vehicle Code § 23612(a)(5)).

#### **514.2.6 EXIGENT CIRCUMSTANCES DOCTRINE**

Under the exigent circumstances doctrine, the level of influence of an intoxicant can be important evidence. Since it is not of a permanent nature, it will be lost if not seized immediately. The above sections will generally come within the guidelines of the exigent circumstances doctrine.



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### *Drunk Driving and Evidence Collection*

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#### **514.3 REFUSAL OR FAILURE TO TEST**

If a person who has been arrested for a violation of Vehicle Code §§ 23140, 23152 or 23153, after having been advised of his/her rights per Vehicle Code § 23612, refuses or fails through statements or actions to complete a chemical test, the handling officer shall serve the notice of order of suspension on behalf of the Department of Motor Vehicles, and confiscate all California driver's licenses in the person's possession (Vehicle Code § 23612(e) and (f)).

Blood may be taken by force in any felony or in a misdemeanor drunk driving investigation when the person refuses to take a chemical test. If the person makes a timely and reasonable request to undergo a different and viable form of testing, such request shall be considered. Blood may only be taken by force when the following circumstances have been met:

- (a) The person must be in custody and the officer must have reason to believe the person is intoxicated.
- (b) The person's alternative choice, if selected, is either unavailable or not a viable test for the nature of the suspected intoxication (e.g., breath is not a viable test for suspected drug influence).
- (c) The blood is taken in a medically approved manner.
- (d) Only reasonable force may be used to restrain the arrestee.

A supervisor shall be present whenever blood is forcibly extracted from a person who is uncooperative and has refused a chemical test. The amount of force used to accomplish the collection of this evidence will be controlled by that supervisor, keeping in mind the seriousness of the suspected offense and the factors used to determine the reasonableness of force (Policy § 300.2.2). In misdemeanor cases, force will generally be limited to handcuffing or similar restraint methods during the withdrawal of blood.

The amount of force and methods used to accomplish the blood sample draw shall be detailed in the related report.

#### **514.4 OBJECTION TO CHEMICAL TEST BY PHYSICIAN**

If the attending physician objects to a suspect submitting to a chemical test, the officer shall attempt to obtain his cooperation by advising the physician that no liability is incurred on the physician's part by the collection of evidence. If the physician still objects the officer shall call a supervisor to the scene.

The supervisor shall attempt to gain the physician's cooperation but shall also admonish him that unless the collection of a chemical sample (blood or urine) is injurious to the patient/suspect; the physician is not civilly responsible and cannot refuse to allow the collection of such evidence.

If the physician persists with objections to a chemical test, the collection of evidence will be made regardless unless the physician can testify that such collection would be injurious to the health of the patient/suspect.

If the physician can testify that such collection would be injurious to the patient/suspects health, such information shall be recorded in the arrest report and no attempt will be made to collect chemical samples as evidence.

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## Traffic Citations

### 516.1 PURPOSE AND SCOPE

This policy outlines the responsibility for traffic citations, the procedure for dismissal, correction, and voiding of traffic citations.

### 516.2 RESPONSIBILITIES

The Traffic Bureau Manager shall be responsible for the development and design of all Department traffic citations in compliance with state law and the Judicial Council.

The Technical Services Bureau shall be responsible for the supply and accounting of all traffic citations issued to employees of this department.

### 516.3 DISMISSAL OF TRAFFIC CITATIONS

Employees of this department do not have the authority to dismiss a citation once it has been issued. Only the court has the authority to dismiss a citation that has been issued (Vehicle Code § 40500(d)). Any request from a recipient to dismiss a citation shall be referred to the Traffic Bureau Manager. Upon a review of the circumstances involving the issuance of the traffic citation, the Traffic Bureau Manager may request the Uniform Division Commander to recommend dismissal of the traffic citation. If approved, the citation will be forwarded to the appropriate court with a request for dismissal. All recipients of traffic citations whose request for the dismissal of a traffic citation has been denied shall be referred to the appropriate court.

Should an officer determine during a court proceeding that a traffic citation should be dismissed in the interest of justice or where prosecution is deemed inappropriate the officer may request the court to dismiss the citation. Upon dismissal of the traffic citation by the court, the officer shall notify his/her immediate supervisor of the circumstances surrounding the dismissal and shall complete any paperwork (FPD Form 724) as directed or required. The citation dismissal shall then be forwarded to the Uniform Division Commander for review.

### 516.4 VOIDING TRAFFIC CITATIONS

Voiding a traffic citation may occur when a traffic citation has not been completed or where it is completed, but not issued. All copies of the citation shall be presented to a supervisor to approve the voiding of the citation. The citation and copies shall then be forwarded to the Traffic Bureau.

### 516.5 CORRECTION OF TRAFFIC CITATIONS

When a traffic citation is issued and in need of correction, the officer issuing the citation shall submit the citation and a letter requesting a specific correction to his/her immediate supervisor. The citation and letter shall then be forwarded to the Traffic Bureau. The Traffic Bureau shall prepare a letter of correction to the court having jurisdiction and to the recipient of the citation.

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### *Traffic Citations*

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#### **516.6 DISPOSITION OF TRAFFIC CITATIONS**

The court and file copies of all traffic citations issued by members of this department shall be forwarded to the employee's immediate supervisor for review. The citation copies shall then be filed with the Technical Services Bureau.

Upon separation from employment with the this department, all employees issued traffic citations books shall return any unused citations to the Technical Services Bureau.

#### **516.7 NOTICE OF PARKING VIOLATION APPEAL PROCEDURE**

Disposition of notice of parking violation appeals is conducted pursuant to Vehicle Code § 40215.

##### **516.7.1 APPEAL STAGES**

Appeals may be pursued sequentially at three different levels:

- (a) Administrative reviews are conducted by the Traffic Bureau who will review written/documentary data. Requests for administrative reviews are available at the front desk or Traffic Bureau of the Fullerton Police Department. These requests are informal written statements outlining why the notice of parking violation should be dismissed. Copies of documentation relating to the notice of parking violation and the request for dismissal must be mailed to the current mailing address of the processing agency.
- (b) If the appellant wishes to pursue the matter beyond administrative review, an administrative hearing may be conducted in person or by written application, at the election of the appellant. Independent referees review the existent administrative file, amendments, and/or testimonial material provided by the appellant and may conduct further investigation or follow-up on their own.
- (c) If the appellant wishes to pursue the matter beyond an administrative hearing, a Superior Court review may be presented in person by the appellant after an application for review and designated filing fees have been paid to The Superior Court of California.

##### **516.7.2 TIME REQUIREMENTS**

Administrative review or appearance before a hearing examiner will not be provided if the mandated time limits are not adhered to by the violator.

- (a) Requests for an administrative review must be postmarked within 21 calendar days of issuance of the notice of parking violation, or within 14 calendar days of the mailing of the Notice of Delinquent Parking (Violation Vehicle Code § 40215(a)).
- (b) Requests for administrative hearings must be made no later than 21 calendar days following the notification mailing of the results of the administrative review (Vehicle Code § 40215(b)).
- (c) An administrative hearing shall be held within 90 calendar days following the receipt of a request for an administrative hearing, excluding time tolled pursuant to Vehicle Code § 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).

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### *Traffic Citations*

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#### **516.7.3 COSTS**

- (a) There is no cost for an administrative review.
- (b) Appellants must pay the full amount due for the citation, or provide satisfactory proof of their inability to pay, before receiving an administrative hearing.
- (c) An appeal through Superior Court requires prior payment of filing costs including applicable court charges and fees. These costs will be reimbursed to the appellant in addition to any previously paid fines if appellant's liability is overruled by the Superior Court.

#### **516.8 JUVENILE CITATIONS**

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. The following guidelines shall be followed based on the information available:

##### **516.8.1 MISDEMEANOR CITATIONS**

**ORANGE COUNTY RESIDENT:** Shall be cited to the Juvenile Traffic Court on Thursdays allowing a minimum of five weeks for processing. Only misdemeanor traffic citations (including §12500(a) CVC) shall be cited into this court.

**OTHER COUNTY RESIDENT:** Residents of other counties shall not be cited to the Orange County Juvenile Court, but shall be advised that the appropriate court will contact them by mail. Officers shall write, "To be notified" in the citation "court appearance date" section.

The full names of the juvenile's parents should be written in the margin of the citation, along with their home telephone number.

##### **516.8.2 INFRACTION CITATIONS**

Juveniles between the age of 14 and 18 shall be cited into the North Justice Center in the same manner as for adults. Residency is not a consideration in this case.

Juveniles under the age of 14, due to changing court guidelines contact the Traffic Bureau Police Specialist prior to issuing a citation. If necessary document the incident to pursue a followup citation or Application by Juvenile Petition.

## Disabled Vehicles

### **520.1 PURPOSE AND SCOPE**

Vehicle Code § 20018 provides that all law enforcement agencies having responsibility for traffic enforcement may develop and adopt a written policy to provide assistance to motorists in disabled vehicles within their primary jurisdiction.

### **520.2 OFFICER RESPONSIBILITY**

When an on-duty officer observes a disabled vehicle on the roadway, the officer should make a reasonable effort to provide assistance. If that officer is assigned to a call of higher priority, the dispatcher should be advised of the location of the disabled vehicle and the need for assistance. The dispatcher should then assign another available officer to respond for assistance as soon as practical.

### **520.3 EXTENT OF ASSISTANCE**

In most cases, a disabled motorist will require assistance. After arrangements for assistance are made, continued involvement by department personnel will be contingent on the time of day, the location, the availability of departmental resources, and the vulnerability of the disabled motorist.

#### **520.3.1 MECHANICAL REPAIRS**

Department personnel shall not make mechanical repairs to a disabled vehicle. The use of push bumpers to relocate vehicles to a position of safety is not considered a mechanical repair.

### **520.4 PUBLIC ACCESS TO THIS POLICY**

This written policy is available upon request.

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## 72-Hour Parking Violations

### 524.1 PURPOSE AND SCOPE

This policy provides procedures for the marking, recording, and storage of vehicles parked in violation of the Fullerton 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 Fullerton 72-Hour Parking Ordinance shall be marked and noted on the Fullerton Police Department Marked Vehicle Card. No case number is required at this time.

A visible chalk mark should be placed on the left rear tire tread at the fender level unless missing tires or other vehicle conditions prevent marking. Any deviation in markings shall be noted on the Marked Vehicle Card. The investigating employee should make a good faith effort to notify the owner of any vehicle subject to towing prior to having the vehicle removed. This may be accomplished by personal contact, telephone or by leaving notice attached to the vehicle at least 24 hours prior to removal.

All Marked Vehicle Cards shall be submitted to the Traffic Bureau for computer data entry.

If a marked vehicle has been moved or the markings have been removed during a 72-hour investigation period, the vehicle shall be marked again for the 72-hour parking violation and a Marked Vehicle Card completed and forwarded to the Traffic Bureau.

Parking citations for the 72-hour parking ordinance shall not be 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.

Parking control officers assigned to the Traffic Bureau shall be responsible for 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 Technical Services Bureau immediately following the storage of the vehicle. It shall be the responsibility of the Technical Services 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 Technical Services 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).

## Administrative Per Se Law (APS)

### 526.1 PURPOSE AND SCOPE

This policy provides for the immediate suspension of California driver's licenses in certain Driving Under the Influence (DUI) cases and in Zero Tolerance incidents. Vehicle Code §§ 13382 (a) and (b), and 13388 (b) require that peace officers immediately suspend driving privileges in certain situations involving arrests for Vehicle Code §§ 23152 and 23153. This policy also describes the policy dealing with Zero Tolerance laws.

### 526.2 SUSPENSION OF CALIFORNIA DRIVER'S LICENSES

The driver's license of a person suspected of driving under the influence of alcohol, shall immediately be suspended under any of the following circumstances:

- (a) The arrestee refuses to submit to a chemical test
- (b) The arrestee fails to complete the selected test
- (c) The arrestee declines a breath test and demands a blood or urine test, and, the arresting officer has reasonable cause to believe that the arrestee's Blood Alcohol Content (BAC) will exceed the .08-percent level
- (d) The arrestee completes the breath tests which show a BAC of .08-percent or higher

#### 526.2.1 ZERO TOLERANCE LAW

Vehicle Code §§ 23136 & 23140 were enacted to reduce alcohol related incidents by persons under the age of 21-years. A person under 21-years of age may have his or her license suspended under the following circumstances:

- (a) When suspected of consuming alcohol and refusing a PAS test
- (b) Who has a blood-alcohol level of .01-percent or greater

Zero Tolerance requires a Preliminary Alcohol Screening (PAS) device as the primary test. If the device is not available, one of the other chemical tests must be completed. Under Zero Tolerance, only the PAS device result is required. If, based on the PAS results, the driver's blood alcohol reading warrants arrest and further chemical testing, the Department of Motor Vehicles does not require completion of the chemical test section of the DS367m form. Once the PAS certification is complete, the Zero Tolerance requirement has been met.

### 526.3 PEACE OFFICER'S RESPONSIBILITY

In any of the above situations, the peace officer, acting on behalf of the Department of Motor Vehicles, shall do the following:

- (a) Confiscate any California driver's license(s) in the possession of the driver. If the subject has an Admin Per Se (APS) temporary license document, do not confiscate.
- (b) Complete and serve the Administrative Per Se Order of Suspension (DMV form DS367, DS367m or DS367s - Officer's Statement and Order of Suspension), 4th page on the driver, regardless of license status.
- (c) The officer will inform the driver that the "Administrative Per Se Order of Suspension", form DS367, DS367m or DS367s' along with his/her violator's notice to appear (except Zero Tolerance) or other release from custody document, will serve as the driver's temporary license. If the driver's privilege to drive is suspended or revoked, the

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### *Administrative Per Se Law (APS)*

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order will not be a valid temporary license. If the subject presents an Admin Per Se suspension order/temporary license, do not confiscate the order but do issue another order pursuant to the current DUI arrest.

#### **526.4 DEPARTMENT OF MOTOR VEHICLES NOTIFICATION**

The following specified items must be forwarded to the Department of Motor Vehicles within five regular business days:

- (a) Officer's Statement form DS367 or DS367m (Minor) or DS367s (Spanish)
- (b) Order of suspension (form DS367, DS367m or DS367s, pages 2 and 3)
- (c) Copy of the printout of the breath test (if taken)
- (d) Traffic collision report if applicable
- (e) The offender's driver's license

#### **526.5 PROCESSING OF FORMS**

In order to ensure that the Department of Motor Vehicles and Police Department forms are routed properly, the following responsibilities are identified:

##### **526.5.1 SUPERVISORY APPROVAL**

The Watch Commander, or the supervisor responsible for approving reports, shall collect the documents described in Policy Manual § 526.4, review for completeness (dates, times, signatures, etc.) and forward the originals of the documents to the Traffic Bureau.

##### **526.5.2 TRAFFIC BUREAU RESPONSIBILITY**

The Traffic Bureau is responsible for the following:

- (a) Copies of documents required by DMV are to be made for the department files and the originals are then to be forwarded to the Department of Motor Vehicles
- (b) Providing a copy of DMV form DS367, DS367m or DS367s to the Technical Services Bureau
- (c) One copy of the Forensic Alcohol Examination Report shall be attached to the second copy of form DS367, which shall then be forwarded to the Technical Services Bureau
- (d) The Traffic Bureau is also responsible for keeping and updating a case log on all persons arrested for impaired driving. Information on that log shall include:
  - 1. Case number
  - 2. Arrested driver's name
  - 3. The date the forms were received in the Traffic Bureau
  - 4. The date the forms were returned to the officer for corrections if applicable
  - 5. The date form DS367 was mailed to the DMV
  - 6. Which test the arrested driver chose

If the Department of Motor Vehicles should return form DS367, DS367m or DS367s for corrections, the Traffic Bureau must notify the officer who made the arrest of the needed corrections. The officer shall make the corrections by lining out the incorrect information with a single line and initialing above the corrected area, including the date the correction was made. White out and strikeouts are not acceptable forms of correction. The form(s) shall then be returned to the Traffic Bureau to be returned to the Department of Motor Vehicles.



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#### **526.5.3 PROPERTY OFFICER RESPONSIBILITY**

It is the responsibility of the property officer to promptly deliver physiological specimens to the designated crime lab as soon as possible after receipt to ensure that the above time requirements are met.

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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 Commander or the Chief of Police.

#### **600.2.1 SUPERVISOR RESPONSIBILITY**

When an officer has a recommendation to dismiss or alter the charges of a pending court case; they shall immediately bring the matter to the attention of their supervisor. If the supervisor agrees with the recommendation, or that some change in charges are advisable, the circumstances should be presented to a Division Commander or the Chief of Police for direction.

### **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.

### **600.4 POTENTIALLY EXCULPATORY EVIDENCE OR FACTS**

Officers must include in their reports adequate reference to all material evidence and facts which are reasonably believed to be exculpatory to any individual in the case. If an officer learns of potentially exculpatory information anytime after submission of the case, the officer must notify the prosecutor as soon as practicable.

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Evidence or facts are considered material if there is a reasonable probability that they may impact the result 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 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.

#### **600.5 PHOTOGRAPHIC IDENTIFICATION OF SUSPECTS**

When practicable, the employee composing and the employee presenting the photo lineup should not be directly involved in the investigation of the case. When this is not possible, the employee presenting the lineup must take the utmost care not to communicate the identity of the suspect in any way.

The following precautions should be taken by any employee presenting a photographic lineup:

- (a) The person of interest or suspect in the photo lineup should not stand out from the other persons depicted in the photos.
- (b) At no time prior to, during or after the presentation of a photographic lineup should it be suggested to a witness that any person depicted in the lineup is a suspect or was in any way connected to the offense.
- (c) The employee presenting the photographs to a witness should not know which photograph depicts the suspect.
- (d) The employee presenting the photographs to a witness should do so sequentially (i.e., showing the witness one photograph at a time) and not simultaneously. The witness should view all photographs in the lineup.
- (e) The position of the suspect's photo and filler photos should be placed in a different random order for each witness.
- (f) In order to avoid undue influence, witnesses viewing a photographic lineup should do so individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the photographic lineup with other witnesses.
- (g) An admonishment should be given to each witness that the suspect's photograph may or may not be among those in the lineup and that the witness is not required to make an identification.

The procedure employed and the results of any photographic lineup should be documented in the case report. A copy of the photographic lineup presented to the witness should be included in the case report. Witness comments of how certain he/she is of the identification or non-identification should be quoted in the appropriate report.

#### **600.5.1 PHOTO IDENTIFICATION FORM**

The Detective supervisor shall be responsible for the development and maintenance of a photographic lineup identification form consistent with this policy.

The form, at minimum, shall contain the following:

- The date, time and location of the lineup procedure
- The name and identifying information of the witness

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- The name of the investigator administering the lineup procedure
- The names of all of the individuals present during the lineup
- An admonishment that the suspect's photograph may or may not be among those in the lineup and that the witness is not required to make an identification
- A signature line where the witness acknowledges that he/she understands the lineup procedures and instructions

The photo identification form should be reviewed at least annually and modified when necessary.

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## 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 DNA EVIDENCE**

If, with the approval of a supervisor, it is determined that rape kit evidence or other crime scene evidence from an unsolved sexual assault is going to be destroyed or disposed of prior to the expiration of the statute of limitations set forth in Penal Code § 803, the assigned officer shall provide the victim of the sexual assault with written notice of the intent to do so no less than sixty (60) days prior to the destruction or disposal of such evidence.

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## **Narcotics and Vice**

### **603.1 PURPOSE AND SCOPE**

It is the objective of the Department to enforce all local, State, and Federal statutes which prohibit the possession, use, or traffic of narcotics, non-prescription dangerous drugs, and other restricted or prohibited substances. The Narcotics Unit investigates controlled substance manufacture, dispensing, and abuse, and often jointly investigates cases in conjunction with other local, State, and Federal law enforcement agencies.

The Department is charged with the enforcement of all criminal statutes including those defining vice offenses. To prevent the spread of vice conditions, the Department will take aggressive enforcement action against all commercialized vice activities, against those vice activities which have been complained of, and against conspicuous vice conditions which appear on the street and in the public places of the City. The Narcotics and Vice Unit is charged with suppressing street prostitution, pimping, pandering, establishments of ill repute, and pornography.

The following policies and procedures will be followed at all times by detectives assigned to the Narcotic/Vice Unit including employees on temporary assignment.

### **603.2 REPORTING OF NARCOTIC/VICE ACTIVITIES**

Employees of this Department who become aware that narcotic or vice activities may be occurring shall report such information on the "Narcotic & Vice Report, (FPD Form 682). This report should be submitted to their supervisor who shall approve the report and forward it to the Narcotics office.

### **603.3 APPROVAL OF POLICE REPORTS**

All police reports from detectives assigned to the Narcotic/Vice Unit shall be read and approved by the sergeant assigned to the unit or his designee.

### **603.4 FURNISHING OF NARCOTICS**

[REDACTED]

### **603.5 USE OF NARCOTICS BY INVESTIGATORS**

[REDACTED]

### **603.6 CONTROL OF NARCOTICS AND DANGEROUS DRUGS**

#### **603.6.1 NARCOTICS TRANSPORTATION**

[REDACTED]



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narcotics in one of the narcotic lockers. As soon as practical a Narcotic/Vice Detective will

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(d) An audit of the narcotic vault and all documentation shall be conducted once yearly by the Chief of Police and the Detective Division Commander on a random basis.

**603.6.2 OFFICERS REQUIRING NARCOTIC EVIDENCE**

[REDACTED]

**603.6.3 DESTRUCTION OF NARCOTICS**

The Narcotic/Vice Unit Supervisor shall authorize the destruction of all narcotics and dangerous drugs. Narcotics shall be destroyed when the case is adjudicated or there is no known suspect.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**603.7 UNDERCOVER INVESTIGATIONS IN OUTSIDE JURISDICTIONS**

[REDACTED]

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[REDACTED]

[REDACTED]

**603.7.1 NOTIFICATIONS**

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

● [REDACTED]

● [REDACTED]

## 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 Narcotics/Vice 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 Property. 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 Asset Forfeiture Account. 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 Uniform Division Commander 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 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 Narcotics/Vice Unit. The inventory 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.



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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**

[REDACTED]

##### **608.4.1 RELATIONSHIPS WITH CONFIDENTIAL INFORMANTS**

No member of the Fullerton 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 Fullerton 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 Fullerton 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 Narcotics/Vice Bureau supervisor
- (g) Officers shall not meet with informants of the opposite sex in a private place unless accompanied by at least one additional officer or with prior approval of the Narcotics/Vice Bureau Supervisor.

[REDACTED]

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(h) [REDACTED]

**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**

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

**608.5.2 CASH DISBURSEMENT POLICY**

[REDACTED]

- [REDACTED]
- [REDACTED]

**608.5.3 PAYMENT PROCESS**

A check shall be requested, payable to the case agent. The case number shall be recorded

[REDACTED]

[REDACTED]

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[REDACTED]

Each confidential informant receiving a cash payment shall be informed of his or her responsibility to report the cash to the Internal Revenue Service (IRS) as income.

#### **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. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] The completed acknowledgement form and a copy of the letter shall be retained in the confidential informant's file.



## **Sex Offender Registration**

### **610.1 PURPOSE AND SCOPE**

The purpose of this policy is to clearly establish roles and responsibilities of department personnel in the registration of sex offenders, and to ensure that the agency establishes and maintains a clear process to facilitate compliance with registration requirements.

### **610.2 POLICY**

It will be the responsibility of the Detective Bureau supervisor to ensure the following:

- (a) All assigned employees receive appropriate training regarding the sex offender registration process.
- (b) As part of the registration process, sex offenders have direct contact with a sex crimes detective, when available, to facilitate a proper threat assessment.
- (c) A system is established and maintained that will reasonably accommodate registrants as they seek to register. The system should rebut any allegation on the part of the offender that the registration process was too confusing, burdensome or difficult for compliance.
- (d) An information dissemination process is established and maintained to provide patrol and Detective Bureau personnel with timely updates regarding new registrants or registrants who have relocated.
- (e) A process is established and maintained to legally verify that a registrant remains in compliance with his/her registration requirements after the initial registration.

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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) At a minimum FPD form 217 shall be completed as soon as practical after discovering Agency property lost, damaged or unserviceable. If the Agency property is serialized, a lost property general offense report shall be completed so the item can be entered into the CLETS property system.
- (c) 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.
- (d) 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.
- (e) Department property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority.
- (f) 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.
- (g) Department telephones are intended for official business. Any personal use shall be limited to incidental and minimal use so as not to interfere with the employee's performance. All toll call expense from personal calls shall be reimbursed to the City. Government Code 8314(b)(1).

#### 700.2.1 CARE OF LOCKER ROOM FACILITIES

Employees shall not deface the exterior or interior of any locker or interior portion of the locker room by affixing stickers, magnets, dry erase boards, etc., nor shall they write or draw on any locker or common locker room area with paint, ink, Marks-A-Lot® pens, etching tools, etc. Employees may use magnets to display appropriate photographs on the interior of their assigned locker. No items shall be placed on the exterior of any locker.

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#### **700.3 FILING CLAIMS FOR PERSONAL PROPERTY**

Claims for reimbursement for damage or loss of personal property must be made on the proper form. This form is submitted to the employee's immediate supervisor. The supervisor may require a separate written report of the loss or damage.

The supervisor shall direct a memo to the appropriate Division Commander, 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.

##### **700.3.1 REPORTING REQUIREMENT**

A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.

A written report shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made.

#### **700.4 LOSS OR DAMAGE OF PROPERTY OF ANOTHER**

Officers and other employees intentionally or unintentionally may cause damage to the real or personal property of another while performing their duties. Any employee who damages or causes to be damaged any real or personal property of another while performing any law enforcement functions, regardless of jurisdiction, shall report it as provided below.

- (a) A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.
- (b) A written report shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made.

##### **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 Commander.

## Department Issued Keys

### 701.1 PURPOSE AND SCOPE

The Department issues a large number of keys to employees for reasons of security and convenience. Without adequate controls, this can become a considerable expense and can jeopardize security and the integrity of our chain of evidence. This chapter describes the keys issued and the procedure to be followed by employees issued keys.

#### 701.1.1 KEYS DEFINED

The definition of "key" includes any traditionally manufactured metal or plastic key, access card, key-fob or any other device with a magnetic, electronic or mechanical configuration designed to lock or unlock mechanical or electronic door locks.

### 701.2 DUPLICATION OF KEYS

No employee of the Fullerton Police Department shall have any key duplicated without the approval of the Services Division Commander, or his designee.

### 701.3 RETENTION OF KEYS

Employees may retain keys permanently issued to them and shall have them available at all times when on duty. Any keys issued shall be turned in upon reassignment, termination of employment or retirement.

Employees shall not maintain in their possession any Department key not officially issued to them.

### 701.4 OTHER PERMANENTLY ISSUED KEYS

Employees may be issued keys for other facilities within the building and within the city. Sworn officers will also be issued a handcuff key. Keys issued to employees are to be used only for official business.

#### 701.4.1 POLICE VEHICLE KEYS

Keys to police vehicles will be issued to all patrol officers and each officer is responsible for that key, like any other issued department property. Additional keys to marked vehicle shall be available to other personnel by contacting the on-duty Watch Commander or other patrol supervisor and shall be returned at the end of shift. Vehicles may be assigned at the discretion of the Watch Commander.

#### 701.4.2 OTHER DEPARTMENT KEYS

Other keys may be issued by the Professional Standards Bureau to personnel, as their duties require. Duplicates of all building keys and vehicles shall be maintained in the key index box under the Watch Commander's control. The key index box shall be kept locked at all times when not in use.

### 701.5 JAIL KEYS

Two sets of keys to the jail door and cell corridor doors shall be available at all times. The jailer on duty shall retain possession of one set while on duty and at the police facility. The other set shall be maintained in the Watch Commander's Office.

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#### **701.6 REPORTING LOST KEYS**

A written report of any lost key shall be submitted to the immediate supervisor for submission to the Division Commander.

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## Personal Communication Devices

### 702.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of department-issued mobile phones and personal communication devices, and the on-duty use of such devices personally-owned by personnel.

Because of technical advances and varying manufacturer nomenclature, this policy will generically refer to all Personal Communication Devices (PCD) as such, but is intended to include all mobile phones, Personal Digital Assistants (PDA), and other such wireless two-way communication and/or portable Internet access devices.

### 702.2 DEPARTMENTALLY ISSUED PCD

Depending on an employee's assignment and needs of the position, the Department may, at its discretion, issue a PCD. Such devices 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 reason.

#### 702.2.1 INDIVIDUALLY OWNED PCD

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

- (a) Carrying an individually-owned personal communication device is optional.
- (b) The device shall be purchased, used and maintained at the employee's expense.

#### 702.2.2 USE OF PERSONAL COMMUNICATION DEVICES

PCDs, whether provided by the Department or personally-owned, should only be used by on-duty employees for legitimate department business except as provided for below. Employees may use a PCD to communicate with other personnel in those situations where the use of the radio is either impractical or the nature of the situation or investigation warrants its use. PCDs however, should not be used to replace regular radio communications.

- (a) PCDs shall not be carried in a manner that allows them to be generally visible while in uniform.
- (b) PCD's may not be used to conduct personal business while on duty except when personal communications may be warranted by the circumstances (e.g., inform family of extended hours) and does not interfere with the employee's performance. While employee's may use personally owned PCDs for personal business during authorized breaks, such usage should be limited as much as practical to areas where the communication will not be seen or heard by members of the public.
- (c) Extended or frequent use of department-issued PCDs or personally owned PCDs while on duty for personal use is prohibited and may be subject to discipline. Employees may be responsible for reimbursing the Department for any charges incurred as a result of personal use.

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#### **702.2.3 USE WHILE DRIVING**

The use of a PCD while driving can cause unnecessary distractions and presents a negative image to the public. Officers operating emergency vehicles should restrict the use of these devices while driving to matters of an urgent nature and should, where practical, stop the vehicle at an appropriate location to complete their call.

Except in the case of an emergency employees who are operating non-emergency vehicles shall not use cellular phones or other personal communication devices while driving unless the telephone is specifically designed and configured to allow hands-free listening and talking (Vehicle Code 23123 (a)). Such use should be restricted to business related calls or calls of an urgent nature.

#### **702.2.4 OFFICIAL USE**

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

- (a) Barricaded suspects.
- (b) Hostage situations
- (c) Mobile Command Post.
- (d) Catastrophic disasters, such as plane crashes, earthquakes, floods, etc.
- (e) Major political/community events.
- (f) Investigative stakeouts where regular phone usage is not practical.
- (g) Emergency contact with outside agency or outside agency field unit equipped with PCDs.
- (h) When immediate communication is needed and the use of the radio is not appropriate and other means are not readily available.



## **Washing of Police Vehicles**

### **703.1 PURPOSE AND SCOPE**

Weather conditions permitting, all police units shall be kept clean at all times and shall be washed as necessary to enhance their appearance.

### **703.2 WASHING DEPARTMENT VEHICLES**

All police vehicles will be washed during the daytime hours, if possible.

#### **703.2.1 WASHING PROCEDURE**

Officers in patrol shall obtain clearance from the Dispatcher before responding to the car wash. Only one marked police unit should be at the car wash at the same time unless otherwise approved by a supervisor.

- (a) The Officer or employee operating the unit shall sign the necessary forms at the car wash to properly bill the City of Fullerton. Officers shall include on the car wash form(s) the unit number of the vehicle washed, the date, and his/her name and employee number.
- (b) Supervisors should direct employees to have dirty police cars washed as soon as possible.
- (c) Employees should be attentive to the activities of car wash employees while the vehicle is being washed to minimize the potential for them to damage or mar the vehicle or its contents.
- (d) Civilian employees using marked vehicles shall remove all weapons from vehicles before going into service.

### **703.3 MAINTAINING THE INTERIOR OF VEHICLES**

Officers assigned to 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.

### **703.4 USE BY CADET PERSONNEL**

Police Cadets may be assigned the task of washing police vehicles. When approved by a supervisor, Cadets shall display the "Out of Service" sign in or on marked units while getting the vehicles washed.

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## Vehicle Maintenance

### 704.1 PURPOSE AND SCOPE

Employees are responsible for assisting in maintaining Department vehicles so that they are properly equipped, properly maintained, properly refueled and present a clean appearance.

### 704.2 DEFECTIVE VEHICLES

When a department vehicle becomes inoperative or in need of repair that affects the safety of the vehicle, that vehicle shall be removed from service for repair. Proper documentation shall be promptly completed by the employee who first becomes aware of the defective condition, describing the correction needed. The paperwork shall be promptly forwarded to vehicle maintenance for repair.

#### 704.2.1 VEHICLES IN NEED OF REPAIR

The City shop performs routine and preventative maintenance on a regularly scheduled basis. The Equipment Serviceman shall be responsible for maintaining the monthly maintenance schedule and coordinating with supervisors to which the vehicle is assigned for timely completion of the maintenance work.

- (a) Any employee who finds that a Department vehicle is in need of repair shall complete FPD Form 221, "Police Vehicles Out of Service for Repair" as soon as practical.
- (b) Vehicles taken out of service for safety reasons shall be taken either to the Basque Yard or to the police facility. If the condition appears serious, it shall be taken to whichever is closer.
- (c) In the event a vehicle must be towed, the official police-towing garage should be called. The vehicle should be towed to the Basque Yard in order to avoid duplication of towing expense.
- (d) When the necessary repair does not require taking the vehicle out of service, the operator shall complete FPD Form 221 by the end of the watch.
- (e) FPD Form 221 should be turned into the equipment room.

#### 704.2.2 REPORTING VEHICLE DAMAGE

Employees shall immediately report any damage, which is discovered before or during their use of the vehicle. Any collision with, or striking of, any object, whether or not damage ensues, requires immediate notification of a supervisor. A supervisor will determine if a Collision Report is required and if photographs should be taken.

- (a) If the damage involves city property only, and does not occur on the roadway, it is discretionary with the supervisor whether a Collision Report is prepared. If the property of another is damaged, or if the damage occurs on a roadway, a Collision Report shall be prepared.
- (b) The operator of the vehicle or the officer discovering the damage shall complete City of Fullerton, "Vehicle Damage Report" form.
- (c) The Watch Commander or other supervisor witnessing the damage shall complete the form and forward the original plus three (3) copies to their Division Commander.

# Fullerton Police Department

## Policy Manual

### *Vehicle Maintenance*

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#### **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:

- 30 Emergency road flares
- 3 Sticks yellow crayon or chalk
- 1 Roll Crime Scene Barricade Tape
- 1 First aid kit containing:
  - 4 Boxes of 4" Compress
  - 1 Box 2" Compress
  - 1 Box 1" Bandages
  - 1 Box Triangular Bandage
  - 1 Box Adhesive Tape
  - 1 Box Rescue Breather (CPR mask)
  - 1 Adult Size Resusitube
  - 1 Child Size Resusitube
  - 1 Rescure Blanket
  - 2 Trauma Bandage 12"x30"
  - 1 Eye Wash
  - 1 Cold Pack
  - 2 Gloves
- 1 Trauma Packs
  - 1 Scissors
  - 3 5"x9" combine Dressing
  - 2 4"x4" Sterile Gauze Pad
  - 2 Gauze Rolls
  - 1 12"x30" Trauma Dressing
  - 1 2" Adhesive Roll
- 5 Large Evidence Vials
- 5 Small Evidence Vials
- 1 Sharps container
- 1 Hazardous Materials Emergency Response Handbook

##### **704.3.2 OPTIONAL SUPPLIES IN VEHICLE STORAGE BOXES**

A Watch Commander may determine that additional items should be carried by the officers on their watch. If these apply only to that shift, the item should be removed by the end of the watch. If the item is needed on a regular basis, it should remain in the storage box.

# Fullerton Police Department

## Policy Manual

### *Vehicle Maintenance*

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#### **704.3.3 INSPECTION OF VEHICLE STORAGE BOXES**

It shall be the responsibility of the Watch Commanders to establish inspection procedures as necessary to assure that contents of the storage boxes are being properly maintained.

#### **704.3.4 RIOT GEAR FOR PATROL OFFICERS**

Riot batons have been placed in the trunks of all marked patrol units. These are to be used as directed by a supervisor. Riot helmets are covered by Policy Manual § 1025.

#### **704.3.5 RIOT GEAR AT POLICE FACILITY**

Additional riot gear is maintained at the police facility and may be issued by any supervisor.

#### **704.3.6 MUTUAL AID RIOT GEAR**

Under the Inter-City Police Assistance Plan, a copy of which is maintained in the Civil Disaster & Disorder Manual, the Sheriff's Office maintains a vehicle stocked with a substantial inventory of special police equipment suitable for riot use. The completely loaded vehicle or portions of the equipment are available by request from the Watch Commander, or higher-ranking officer by contacting the Sheriff's Department Watch Commander

#### **704.3.7 BACK-UP INVENTORIES**

All of the required items, including first aid supplies, may be obtained from the Professional Standards Bureau with proper requisition. It is the responsibility of the Watch Commander to ensure these supplies are maintained.

## Refueling of Police Vehicles

### 705.1 PURPOSE AND SCOPE

Employees shall use strict safety standards to avoid personal injury and property damage while fueling police equipment. These procedures attempt to outline general safety standards, which will aid in the safe handling of petroleum products.

### 705.2 FUELING OPERATIONS

The following procedure should be followed to eliminate fire hazards during refueling:

- (a) The engine shall be turned off and shall remain off during refueling.
- (b) There shall be no smoking by any person within 50 feet of the actual gasoline refueling operation. No open flames will be permitted within 50 feet of the gasoline pump or gas tank during actual refueling.
- (c) Employees shall be observant during every stage of the operation to avoid gasoline spills that may be caused from overfilling the gasoline tank, defective hose cut-off devices, or other causes.
- (d) During refueling, the employee shall not leave the immediate area of the vehicle and gasoline pump for any reason. If called away, the employee shall deactivate the pump by returning the hose and nozzle to the pump, turn off the pump switch and replace the vehicle gas cap securely.

#### 705.2.1 GASOLINE SPILLS

In case of a gasoline spill, water may be used to wash away and disperse the spilled gasoline provided the amount is small and will not otherwise present a hazard after washdown. On large spills, the Watch Commander shall be notified immediately. Upon his/her determination, the Fullerton Fire Department will be called to the scene. Officers will standby to secure the area until the area is pronounced safe by the Fire Department. In extreme cases, where a continued hazard results, a report will be made and forwarded to the Support Services Division Commander for follow up action as needed.

#### 705.2.2 COMPLETION OF FUEL LOG

Employees obtaining fuel for any City-owned or leased vehicle shall properly record the appropriate information in the fuel log computer.

#### 705.2.3 FUEL FROM SOURCES OTHER POLICE FACILITY

Employees needing to refuel at the City's maintenance yard shall follow the same procedures as outlined above.

### 705.3 FUEL LEVELS FOR POLICE VEHICLES

To ensure all police vehicles are immediately available for emergencies, no police vehicle shall be left with less than 1/4 tank of fuel. It shall be the responsibility of the employee last assigned to the vehicle to ensure that the required amount of fuel is left in the vehicle.

# Fullerton Police Department

## Policy Manual

### *Refueling of Police Vehicles*

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#### **705.3.1 OIL LEVELS FOR POLICE EQUIPMENT**

Employees should check the oil level of their vehicle each time the vehicle is refueled. Oil will then be added as needed.

#### **705.4 MOTORCYCLE REFUELING**

Motorcycles are to be fueled at the designated gas station(s), within the city.

## Vehicle Use Policy

### 706.1 PURPOSE & SCOPE

The Department utilizes city owned motor vehicles in a variety of applications operated by department personnel. In order to maintain a system of accountability and ensure City owned vehicles are used appropriately, regulations relating to the use of these vehicles have been established. The term "City owned" as used in this section also refers to any vehicle leased or rented by the City.

### 706.2 USE OF VEHICLES

#### 706.2.1 SHIFT ASSIGNED VEHICLES

Personnel assigned to routine scheduled field duties shall log onto the in-car computer inputting the required information when going on duty. If the vehicle is not equipped with a working in-car computer, they shall notify the Communications Center for entry of the vehicle number on the shift roster. If the employee exchanges vehicles during the shift, the new vehicle number shall be entered.

The Watch Commander shall ensure a copy of the unit roster indicating personnel assignments and vehicle numbers is completed for each shift and maintained for a minimum period of two years.

Employees shall be responsible for inspecting the interior and exterior of any assigned vehicle before taking the vehicle into service and at the conclusion of their shift. Any previously unreported damage, mechanical problems, unauthorized contents or other problems with the vehicle shall be promptly reported to a supervisor and documented as appropriate.

#### 706.2.2 UNSCHEDULED USE OF VEHICLES

Personnel utilizing a vehicle for any purpose other than their normally assigned duties shall first notify the Watch Commander of the reasons for use and a notation will be made on the shift roster indicating the operator's name and vehicle number. This section does not apply to personnel permanently assigned an individual vehicle (e.g., command staff, detectives), or to Property Office personnel assigned transportation duties to and from the maintenance yard, etc.

#### 706.2.3 UNDERCOVER VEHICLES

Unmarked units, if not assigned to an individual employee, shall not be used without first obtaining approval from the respective unit supervisor.

#### 706.2.4 DETECTIVE BUREAU VEHICLES

Detective Division vehicle use is restricted to detective personnel Monday through Friday from 7:00 AM to 5:00 PM unless approved by a detective supervisor. After hour use of Detective vehicles by personnel not assigned to the Detective shall be recorded with the Watch Commander on the shift roster.

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## Policy Manual

### *Vehicle Use Policy*

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#### **706.2.5 AUTHORIZED PASSENGERS**

Personnel operating department owned vehicles shall not permit persons other than City employees except persons required to be conveyed in the performance of duty, as otherwise authorized by a supervisor, or by specific City agreements.

#### **706.2.6 PARKING**

City owned vehicles should be parked in their assigned stalls. Employees shall not park privately owned vehicles in any stall assigned to a City owned vehicle or in other areas of the parking lot not designated as a parking space unless authorized by a supervisor. Privately owned motorcycles shall be parked in designated areas.

#### **706.3 ASSIGNED VEHICLE AGREEMENT**

City owned vehicles assigned to personnel for their use within their job assignment may be used to transport the employee to and from their residence for work-related purposes. The employee shall sign an agreement setting the standard for how the vehicle shall be used and where it shall be parked when the employee is not on duty.

The agreement states that the vehicle shall only be used for work-related purposes and shall not be used for personal errands, or transports, unless special circumstances exist and the shift sergeant gives authorization. The agreement also requires the employee to be responsible for the vehicle's care and maintenance. The Department will provide necessary care/maintenance supplies.

The assignment of vehicles is at the discretion of the Chief of Police. Assigned vehicles may be changed at any time and/or permission to take home a vehicle may be withdrawn at any time.

#### **706.3.1 VEHICLES SUBJECT TO INSPECTION**

All City owned vehicles are subject to inspection and or search at any time by a supervisor and no employee assigned to or operating such vehicle shall be entitled to any expectation of privacy with respect to the vehicle or its contents.

#### **706.4 SECURITY**

Employees may take home City owned vehicles only with prior approval from their Division Commander and shall meet the following criteria:

- (a) Off-street parking shall be available at the employee's residence.
- (b) Vehicles shall be locked when not attended.
- (c) All firearms and kinetic impact weapons shall be removed from the interior of the vehicle and placed in the trunk or properly secured in the residence when the vehicle is not attended (refer to Firearms policy § 312 regarding safe storage of firearms at home).

When an employee is on vacation, leave, or out of the area in excess of one week, the vehicle shall be stored in a secure garage at the employee's residence or at the police facility.

#### **706.4.1 KEYS**

All uniformed field personnel approved to operate marked patrol vehicles shall be issued their own personal unit key as part of their initial equipment distribution upon hiring. Personnel assigned a permanent vehicle shall be issued keys for their respective vehicle.



# Fullerton Police Department

## Policy Manual

### *Vehicle Use Policy*

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The loss of any assigned key shall be promptly reported in writing through the employee's chain of command.

#### **706.5 ENFORCEMENT ACTIONS**

When driving an assigned vehicle to and from work outside of the jurisdiction of the Fullerton Police Department, an officer shall not become involved in enforcement actions except in those circumstances where a potential threat to life or serious property damage exists.

Officers driving marked vehicles shall be armed at all times.

Officers may render public assistance, e.g. to a stranded motorist, when deemed prudent.

#### **706.6 MAINTENANCE**

Each officer assigned to use a vehicle is responsible to inspect that vehicle at the beginning of his/her shift. If emergencies preclude an inspection at that time, the inspection shall be conducted as soon as possible thereafter.

Inspections should include radio equipment, emergency lights, siren, outside speakers, alley lights, brake lights, headlights, etc. Officers shall also check for body damage, unusual wear and/or any unsafe condition of the tires, brakes, oil, etc. Emergency supplies and equipment shall be checked and replenished as needed.

- (a) Officers are responsible for ensuring all trash is cleaned out of their assigned unit prior to the end of their shift.
- (b) Supervisors shall make random but routine inspections of the vehicles assigned to their personnel to ensure proper care and maintenance of all vehicles.

##### **706.6.1 ACCESSORIES AND/OR MODIFICATIONS**

No modifications, additions or deletions of any equipment or accessories shall be made to the vehicle without written permission from the assigned vehicle program manager.

#### **706.7 COLLISION DAMAGE, ABUSE AND MISUSE**

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.

When a collision involves a department vehicle or when a member of this department is an involved driver in a collision that occurs in this jurisdiction, and the collision results in serious injury or death, the California Highway Patrol should be summoned to handle the investigation.

The employee involved in the collision shall complete the City's vehicle accident 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.

# Fullerton Police Department

## Policy Manual

### *Vehicle Use Policy*

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#### **706.8 TOLL ROAD USAGE**

Law enforcement vehicles are not routinely exempted from incurring toll road charges. Pursuant to the non-revenue policy of the toll roads, law enforcement agencies responding to an emergency or incident on the toll roads, while on duty, are exempt from paying the toll. Commuting, or returning to the City after an emergency does not qualify for this exemption and personnel using City owned vehicles are subject to the toll charge. To avoid unnecessary toll road violation charges, all employees operating a City owned vehicle upon the toll road shall adhere to the following:

- (a) All employees operating a City owned vehicle for any reason other than an initial response to an emergency shall stop and pay the appropriate toll charge. Employees may submit for reimbursement from the City for any toll fees.
- (b) All employees passing through the Toll Plaza or booth during a response to an emergency shall draft a memo to their respective Division Commander with five working days explaining the circumstances.

#### **706.9 SPECIALIZED VEHICLE USE**

Designated vehicles are equipped for specific unit assignment and may require specialized training and instruction to operate. Only persons authorized by a Division Commander or the unit supervisor will be allowed to operate these vehicles.

##### **706.9.1 CRIME SCENE INVESTIGATION UNIT**

The Crime Scene Investigation Unit is a specialized vehicle, equipped primarily for use by crime scene investigators.

An inventory of the equipment contained in the Crime Scene Investigation Unit shall be maintained in the unit at all times. The Crime Scene Investigators shall be responsible for maintaining this inventory on a current basis.

##### **706.9.2 ACCIDENT INVESTIGATION UNIT**

The Accident Investigation Units are specialized vehicles, equipped primarily for use by traffic investigators. An inventory of the equipment contained in the Collision Investigation Unit shall be maintained in the units. Accident Investigators assigned to the Traffic Bureau shall be responsible for maintaining this inventory on a current basis.

##### **706.9.3 COMMERCIAL ENFORCEMENT UNIT**

The Commercial Enforcement Unit is a specialized vehicle primarily for use by traffic officers specializing in commercial enforcement duty.

An inventory of the equipment contained in the Commercial Enforcement Unit shall be maintained in the vehicle. The traffic officer assigned to commercial vehicle enforcement duties shall be responsible for maintaining this inventory on a current basis.

##### **706.9.4 PARKING CONTROL UNITS**

Parking Control Units are assigned to the Traffic Bureau and shall be used specifically for parking control duties except as otherwise authorized by the Uniform Division Commander or the Traffic Bureau Lieutenant.

# Fullerton Police Department

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### *Vehicle Use Policy*

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#### **706.9.5 MOTORCYCLE UNITS**

Motorcycle Units are assigned to the Traffic Bureau and shall be used only for traffic enforcement duty except as otherwise authorized by the Uniform Division Commander or Traffic Lieutenant.

- (a) Only officers who have been specifically assigned as a motorcycle traffic officer are authorized to operate motorcycles.
- (b) Officers or other employees wishing to ride motorcycles for familiarization purposes shall secure written authorization from the Traffic Bureau Lieutenant.
- (c) Officers assigned to motorcycles should not ride these vehicles during inclement weather except as specifically authorized by the Traffic Bureau Lieutenant. During inclement weather, motorcycle officers shall be assigned use of marked patrol vehicles for traffic enforcement purposes.

#### **706.9.6 PRISONER TRANSPORTATION VEHICLE**

Although this vehicle is assigned to the Support Services Division, and its main purpose is the transportation of prisoners, this vehicle can also be put into service upon authorization by the Watch Commander, as follows:

- (a) For the transportation of large and bulky property.
- (b) For response to major disturbances where it is probable that multiple arrests will be made. However, it is not to be used routinely for the transportation of one or two prisoners from the location of arrest to the police facility. This type of arrest will be handled by using patrol vehicles.

#### **706.9.7 SPECIAL WEAPONS AND TACTICS VEHICLE**

The Special Weapons and Tactics Vehicle is designed for transporting tactical equipment, weapons and personnel assigned to the Crisis Response Unit. Crisis Response Unit personnel shall be responsible for maintenance and inventory of the equipment contained in the Special Weapons and Tactics Vehicle as designated by the Crisis Response Unit Commander.

#### **706.10 VEHICLES ASSIGNED TO THE DETECTIVE DIVISION**

The Detective Division vehicle assignments shall be made by the Detective Division Commander.

##### **706.10.1 USE OF DETECTIVE VEHICLES BY UNIFORM PERSONNEL**

When there are insufficient patrol units available, or circumstances require the use of an unmarked vehicle, the Watch Commander may assign officers to use Detective Division vehicles, subject to their availability.

- (a) Officers assigned the use of a Detective Division vehicle shall not be assigned to, nor shall they engage in, duties primarily related to traffic law enforcement. Should it be necessary to stop a vehicle, a marked patrol unit should be requested to assist in the stop, if at all practical.
- (b) When Detective Vehicles are used and returned by Uniform Personnel, all trash and debris shall be removed from the vehicle and the gas tank shall be filled.

# Fullerton Police Department

## Policy Manual

### *Vehicle Use Policy*

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#### **706.11 VEHICLES ASSIGNED TO THE SERVICES DIVISION**

With the exception of the prisoner transportation vehicle as outlined in §706.9.6 , vehicles assigned to the Services Division normally will not be used by personnel of the Uniform or Detective Division without approval of the Services Division Commander, or his designee.

#### **706.12 CIVILIAN EMPLOYEE USE**

Civilian employees using marked vehicles shall ensure all weapons are removed from vehicles before going into service. Civilian employees shall also prominently display the "out of service" placards or lightbar covers at all times. Civilian employees shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

## Sleep Room Use

### 707.1 PURPOSE AND SCOPE

The purpose of this policy is to establish procedures and responsibilities for individuals using the Police Department on site Sleep Rooms which are available to all employees of the Police Department.

The Police Department has provided a location designated for off-duty Department personnel to sleep or rest following extended working hours, a court appearance or other work-related activities making it difficult for personnel to return to their home to sleep. This program will assist employees to better utilize their professional and personal time, mutually benefiting the employee and the Department by providing employees the ability to receive adequate rest prior to resuming their duties. These rooms are not designed for long term stays and shall only be used as directed in this policy.

### 707.2 SLEEP ROOM

There are two separate Sleep Rooms labeled "A" and "B". Sleep Room "A" is designated for female employees and Sleep Room "B" for male employees. Employees of different gender shall not use the same Sleep Room.

Personnel who wish to utilize the area designated for sleeping shall adhere to the following procedure:

- (a) Obtain the on-duty Watch Commander's authorization and advise the Communications Bureau.
- (b) Sign in on the Sleep Room Log.
- (c) Sign in on the white board attached to the Sleep Room door and gain access with the provided Sleep Room key.
- (d) Utilize any available bed in the gender specific Sleep Room.
- (e) Bedding shall be placed on a bed prior to using it for rest or sleeping. Employees may utilize the supplied bedding or use a personal sleeping bag and pillow in place of the bedding. Department provided bedding is located in the closet next to the Sleep Rooms. Bedding shall consist of:
  1. Fitted sheet
  2. Flat sheet
  3. Blanket and
  4. Pillow case
- (f) When finished using the Sleep Room, it shall be the responsibility of the employee to remove all soiled bedding and replace the bedspread and pillow. Employees who have used Department bedding shall remove the soiled bedding and place it in a laundry bag (located in the closet next to the Sleep Rooms) and then place the laundry bag in the jail laundry for cleaning. All personal items shall be removed from the Sleep Rooms prior to exiting. The employee shall erase his/her name from the white board.
- (g) Leave the facility in the same or better condition as found.
- (h) Advise the Communications Bureau immediately upon leaving the Sleep Room and complete the Sleep Room log.

# Fullerton Police Department

## Policy Manual

### *Sleep Room Use*

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- (i) Report any repair or maintenance issue to the Department's Administrative Analyst.

#### **707.2.1 SLEEP ROOM LOG**

The Sleep Room Log shall be maintained in the Watch Commander's Office. The Watch Commander shall ensure the log is completed appropriately when personnel are authorized to use the Sleep Room and when personnel leave the Sleep Room.

#### **707.3 REGULATIONS**

- (a) Personnel shall remain modestly clothed while using the Sleep Rooms.
- (b) Department personnel without authorization shall not enter the Sleep Room to visit or communicate with authorized personnel using the rooms.
- (c) The Sleep Room is a City facility and as such, all City and Police Department rules apply. Personnel shall be particularly courteous of others using the Sleep Rooms.
- (d) The use of alcohol shall not be permitted in the Sleep Rooms or adjacent areas.
- (e) Smoking shall not be permitted within the Sleep Rooms or adjacent areas.
- (f) No food shall be taken into the Sleep Rooms.
- (g) Alarm clocks are provided and personnel using the Sleep Rooms shall be responsible for their own wake-up time.
- (h) The storage of clothing, bedding, or other personal items shall not be permitted in the Sleep Rooms beyond the duration of its immediate use.
- (i) The Sleep Rooms shall not be used by anyone other than Department personnel without the permission of the Chief of Police.
- (j) Personnel using the Sleep Rooms shall ensure that all utilities have been turned off and doors secured upon leaving.

#### **707.4 WATCH COMMANDER'S RESPONSIBILITY**

The on-duty Watch Commander is responsible for periodic inspections of the Sleep Rooms to ensure proper maintenance and cleanliness.

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**Chapter 8 - Support Services**

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## Crime Analysis

### 800.1 PURPOSE AND SCOPE

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

### 800.2 DATA SOURCES

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

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

### 800.3 CRIME ANALYSIS FACTORS

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

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

### 800.4 CRIME ANALYSIS DISSEMINATION

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



## **Police Radio Operations**

### **801.1 PURPOSE AND SCOPE**

The Department participates in the Orange County Countywide Coordinated Communications System (CCCS). The Department subscribes to and supports the policies developed by the Communications Committee of the Orange County Chiefs of Police and Sheriff's Association.

This policy outlines the procedures to be followed by employees operating the police radio console. In addition to Department policies & procedures, the use of the radio system is monitored and regulated by the Federal Communications Commission (F.C.C.).

### **801.2 OFFICIAL RADIO CODES**

Employees shall not use radio codes different than those established by the Policy Manual or the official Radio Code booklet published by Orange County Communications.

Employees should use the entire call sign when initiating communication with a Fullerton 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 and dispatcher once the mobile unit has been properly identified.

#### **801.2.1 UNPROFESSIONAL RADIO CONDUCT**

F.C.C. regulations prohibit swearing and other forms of unprofessional use of the radio. Employees shall not indulge in any conduct that would be considered unprofessional use of the radio.

## **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**

Fullerton 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 the Communications Center and officers.

#### **802.2.1 COMMUNICATIONS LOG**

It shall be the responsibility of the Communications Center to record all relevant information on calls for criminal and non-criminal service or self-initiated activity. Employees shall attempt to elicit as much information as possible to enhance the safety of the officer and assist in anticipating conditions to be encountered at the scene. Desirable information would include, at a minimum, the following:

- 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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# Fullerton Police Department

## Policy Manual

### *Communication Operations*

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#### **802.3.1 OFFICER IDENTIFICATION**

Identification systems are based on factors such as beat assignment and officer identification numbers. Employees should use the entire call sign when initiating communication with the dispatcher. The use of the call sign allows for a brief pause so that the dispatcher can acknowledge the appropriate unit. Employees initiating communication with other agencies shall use their entire call sign. This requirement does not apply to continuing conversation between the mobile unit and dispatcher once the mobile unit has been properly identified.

## Mobile Unit Identification

### 803.1 PURPOSE AND SCOPE

Proper radio procedure requires the use of the "24" designator before the unit call signs for identification; e.g., 24-100, 24-C4, 24-E3. The first two digits identify Fullerton Police Department. The third digit identifies the division, unit, watch or rank within the Department. The fourth and fifth (if applicable) digit(s) identifies the specific user. To assure uniformity of assignment, the following call sign assignments are made.

### 803.2 IDENTIFIER ASSIGNMENTS

CHIEF OF POLICE	24000
DETECTIVE DIVISION COMMANDER	24-500
SERVICES DIVISION COMMANDER	24-600
UNIFORM DIVISION COMMANDER	24-700
LIEUTENANTS	24-L (Lincoln) 1 through 10
SERGEANTS	24-S (Sam) 1 through 30
<b>UNIFORM DIVISION</b>	
Patrol Bureau	24-100 through 24-399
Traffic Bureau	24-400 through 24-499
K-9 Officers	24-91K through 24-93K
Downtown Officers	24-D (Delta) 1 through 10
Community Enhancement Team	24-E (Echo) 1 through 10
<b>DETECTIVE DIVISION</b>	24-500 through 24-599
Crime Impact Detectives	24-C (Charlie) 1 through 10
Target Detectives	24-T (Tango) 1 through 10
<b>SERVICES DIVISION</b>	24-601 through 24-699
R.S.V.P.	24-R (Romeo) 1 through 45

### 803.3 PROPER USE OF CALL SIGN

Employees should use their designated call sign, including the station identifier (24) when initiating communication with the Fullerton Dispatch Center. The use of the entire call sign allows for a brief pause so that a dispatcher can acknowledge the appropriate unit. Employees initiating communication with other agencies shall use their entire designated call sign prior to each transmission. This requirement does not apply to continuing conversation between the mobile unit and the Fullerton Dispatch Center once the mobile unit has been properly identified.

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## Property Procedures

### 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 evidential value and where the owner cannot be readily identified or contacted.

**Evidence Continuum or Storage Location Page** - Computer generated property reports linked to Fullerton Police Department case reports. These report pages are generated by the booking officer and serve as a continuing secure database to maintain chain of custody documentation for items booked as evidence or safekeeping.

### 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 overflow storage locker. Care shall be taken to maintain the chain of custody for all evidence by completing the appropriate evidence continuity or storage location pages in the booking officers report.

Where ownership can be established as to found property with no apparent evidential value, such property may be released to the owner without the need for booking, and clearly noted in the officer's report.

#### 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 tags and computer generated property report, describing each item of property separately, listing all serial numbers, owner's name, finder's name, and other identifying information or markings.
- (b) Seal each item of evidence with evidence tape and mark the tape with the booking employee's initials and the date.

# Fullerton Police Department

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### Property Procedures

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- (c) Complete an evidence/property tag and attach it to each package or envelope in which the property is stored.
- (d) The appropriate property reports shall be electronically included with the case report.
- (e) When the property is too large to be placed in a locker, the item may be retained in the overflow evidence locker. Whenever an item is placed in an overflow locker or other non-traditional location, the booking officer, prior to going off-duty, will forward an email message or handwritten note to the property office or on-duty property officers to alert them to the location of the item.

#### **804.3.2 NARCOTICS AND DANGEROUS DRUGS**

All narcotics and dangerous drugs shall be booked separately. Paraphernalia as defined by Health & Safety Code § 11364 shall also be booked separately.

The officer seizing the narcotics and dangerous drugs shall place them in the designated locker and complete the evidence continuity or storage location page in their report.

#### **804.3.3 EXPLOSIVES**

Explosives that are known or suspected to be armed or live, other than fixed ammunition, should not be retained in the police facility. All fireworks, railroad flares, or fuses that are considered safe will be transported to the Fire Department on a regular basis by a property officer.

Officers who encounter an explosive device shall immediately notify their immediate supervisor and/or Watch Commander. The Bomb Squad will be called to handle situations involving explosive devices and all such devices will be released to them for disposal.

#### **804.3.4 EXCEPTIONAL HANDLING**

Certain property items require a separate process. The following items shall be processed in the described manner:

- (a) Bodily fluids such as blood or semen stains shall be air dried prior to booking
- (b) License plates found not to be stolen or connected with a known crime, should be released directly to the property officer, 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 report. Property tags will be securely attached to each bicycle or bicycle frame. The property should be placed in the bicycle storage area.
- (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

City property, unless connected to a known criminal case, should be released directly to the appropriate City department. No formal booking is required. In cases where no responsible person can be located, the property should be booked for safekeeping in the normal manner.

#### **804.4 PACKAGING OF PROPERTY**

Certain items require special consideration and shall be booked separately as follows:

- (a) Narcotics and dangerous drugs
  - (b) Firearms (ensure they are unloaded and booked separately from ammunition)
-

# Fullerton Police Department

## Policy Manual

### *Property Procedures*

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- (c) Property with more than one known owner
- (d) Paraphernalia as described in Health and Safety Code § 11364 and Business and Profession Code § 4140
- (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, and syringe tubes should be used to package syringes and needles.

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. 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 evidence 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 documentation to be included on the evidence continuity or storage location page under the appropriate booking case number.

The Orange County Sheriff evidence tag shall be attached to all narcotic packaging for testing purposes. This requirement excludes marijuana.

#### **804.5 RECORDING OF PROPERTY**

The property officer receiving custody of evidence or property shall record the date and time the property was received in the case evidence continuity or storage location pages. A property tag number is automatically generated in the within the case file. Any changes in the location or possession of property held by the Fullerton Police Department shall be noted in the case file evidence continuity or storage location pages.

#### **804.6 PROPERTY CONTROL**

Each time the property officer receives property or releases property to another person, he/she shall enter this information on case file evidence continuity or storage location page. Officers desiring property for court shall contact the property officer 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 case file evidence continuity or storage location page shall be completed to maintain the chain of possession.

# Fullerton Police Department

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No property or evidence is to be released without first receiving written or electronic authorization from a supervisor or detective.

Request for analysis for items other than narcotics or drugs shall be completed on the appropriate forms and submitted to the property officer. This request may be filled out any time after booking of the 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 on the evidence continuity or storage location page and the request for laboratory analysis.

The property officer releasing the evidence must complete the required information on the evidence continuity or storage location page. The lab forms will be transported with the property to the examining laboratory.

#### **804.6.3 STATUS OF PROPERTY**

Each person receiving property will make the appropriate entry to document the chain of evidence. Temporary release of property to officers for investigative purposes, or for court, shall be noted on the evidence continuity or storage location page, stating the date, time and to whom released.

The property officer shall obtain the electronic 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 on the evidence continuity or storage location page, indicating date, time, and the person who returned the property.

#### **804.6.4 AUTHORITY TO RELEASE PROPERTY**

The Detective Bureau 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 entry in the evidence continuity or storage location page, listing the name and address of the person to whom the property is to be released. The entry shall be by the authorizing supervisor or detective and must conform to the items listed on the evidence continuity or storage location page and must specify the specific item(s) to be released. Release of all property shall be documented on the evidence continuity or storage location page.

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



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destroyed (Civil Code § 2080.6). The final disposition of all such property shall be fully documented in the case file evidence continuity or storage location page.

A property officer shall release the property upon proper identification being presented by the owner for which an authorized release has been received. An electronic signature of the person receiving the property shall be recorded on the Evidence continuity or storage location page.

#### **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 Detective Bureau will be responsible for the 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, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The property officer 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)

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#### 804.7.2 UNCLAIMED MONEY

If found or seized money is no longer required as evidence and remains unclaimed after three years, the Department shall cause a notice to be published each week for a period of two consecutive weeks in a local newspaper of general circulation (Government Code § 50050). Such notice shall state the amount of money, the fund in which it is held and that the money will become the property of the agency on a designated date not less than 45 days and not more than 60 days after the first publication (Government Code § 50051).

Any individual item with a value of less than \$15.00, or any amount if the depositor/owner's name is unknown, which remains unclaimed for a year or by order of the court, may be transferred to the general fund without the necessity of public notice (Government Code § 50055).

If the money remains unclaimed as of the date designated in the published notice, the money will become the property of this department to fund official law enforcement operations. Money representing restitution collected on behalf of victims shall either be deposited into the Restitution Fund or used for purposes of victim services.

#### 804.7.3 LAW ENFORCEMENT GUN RELEASE PROCESS

Penal Code §12021.3 requires any person who claims title to any firearm that is in the custody or control of a court or law enforcement agency and who wishes to have the firearm returned, to submit an LEGR Application form (FD119) for a determination by the Department of Justice (DOJ) as to whether they are eligible to possess a firearm.

##### Process:

- Applicant is required to complete DOJ form FD119 and submit the form directly to DOJ.
- Once the applicant receives the approval, they have 30 days to present the ORIGINAL notice to the Fullerton Police property office to regain possession of the firearm. That notice must have a Gold Seal affixed on the face of the approval letter.
- Upon receipt, the property officer shall retain the ORIGINAL release **authorization notice with the gold seal** for case file prior to releasing the firearm(s).
- Letters issued by the DOJ notifying persons they are **prohibited** from possessing firearms *will not* have the gold seal affixed to the face of the denial letter.
- If the applicant has **only** long guns in custody they will receive an approval letter from the DOJ with the gold seal affixed that simply states the applicant is eligible to process firearms.
- If the applicant has handguns **and** long guns in custody they will receive an approval letter from the DOJ with the gold seal affixed that will reflect the description of the handguns in custody, but will make no reference to long guns.
- Firearm(s) should not be returned to the applicant prior to receiving written authorization notice from DOJ.
- In the case of an individual seeking the return of an antique, pellet or BB firearm, stun gun or TASER, is not required to file for a clearance from DOJ.

Exemptions under Penal Code §12021.3 is the return of a firearm (eg. duty weapon) to sworn personnel subsequent to an officer-involved shooting incident where the law enforcement agency's post-shooting investigation revealed that the shooting was justified.

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#### **804.8 INSPECTIONS OF THE EVIDENCE ROOM**

- (a) On a monthly basis, the supervisor of the evidence custodian shall make an inspection of the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.
- (b) Unannounced inspections of evidence storage areas shall be conducted annually as directed by the Chief of Police.
- (c) An annual audit of evidence held by the Department shall be conducted by a Division Commander (as appointed by the Chief of Police) not routinely or directly connected with evidence control.
- (d) Whenever a change is made in personnel who have access to the evidence room, an inventory of all evidence/property shall be made by an individual not associated to the property room or function to ensure that records are correct and all evidence property is accounted for.

## **Automatic Number/Location Identification**

### **805.1 PURPOSE AND SCOPE**

The Police Department possesses the ability to immediately identify addresses from 7-digit phone numbers. A T & T has provided the Automated Number Identification and Automated Location Identification (ANI/ALI) service to all Public Safety Answering Points. The Fullerton Police Department, as a bona fide "Public Safety Answering Point" (PSAP) is prohibited from obtaining ANI/ALI information (i.e. phone numbers and addresses) if certain criteria has not been met.

### **805.2 PROCEDURE**

Police Department employees may request ANI/ALI information, with cause, by providing the telephone number to the dispatcher who will then obtain the address through the ANI/ALI system using the "Direct Database Inquiry" function.

#### **805.2.1 REQUEST CRITERIA**

Police Department employees may request address information from the ANI/ALI system if at least one of any of the following criteria has been met:

- (a) The caller is requesting emergency aid as specified in Government Code §53100. Government Code §53100 defines a request for emergency aid as "Such a simplified means of procuring emergency service that will result in the saving of life, a reduction in the destruction of property, quicker apprehension of criminals..."
- (b) The caller has given the call taker his/her telephone number.
- (c) The call taker determines that an emergency condition exists.
- (d) The caller is unable or has failed to give the call taker sufficient information to facilitate a proper emergency response.

### **805.3 REPORTING REQUIREMENTS**

Any time an employee requests ANI/ALI information, a log entry must be completed on the ANI/ALI log located in the Communications Center. The information shall include the name of the person making the request, the reasons for the request and the employee's name who accessed the database.

### **805.4 PROHIBITED USE OF ANI/ALI**

A T & T monitors the use of the ANI/ALI information. All database information obtained from the ANI/ALI system is the property of A T & T and/or connecting carriers and is confidential and proprietary in nature. Misuse of information obtained from the system or any use of the system not described in Policy Manual §1008.21 is a serious violation of law and may result in disciplinary action.

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## Technical Services Bureau Procedures

### **806.1 PURPOSE AND SCOPE**

The Technical Services Manager shall maintain the Department Technical Services Bureau Procedures Manual on a current basis to reflect the procedures being followed within the Technical Services 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 Technical Services Bureau by Technical Services Bureau personnel.

Reports are numbered commencing with the last two digits of the current year followed by a sequential number beginning with 00001 starting at midnight on the first day of January of each year. As an example, case number YY-00001 would be the first new case beginning January 1 of a new year.

### **806.2 FILE ACCESS AND SECURITY**

All reports including, but not limited to, initial, supplemental, follow-up, evidence, and all reports critical to a case shall be maintained in a secure area within the Technical Services Bureau accessible only to authorized Technical Services Bureau personnel. Access to report files after hours or when records personnel are otherwise not available may be obtained through the Watch Commander.

Fullerton Police Department employees shall not access, view or distribute, or allow anyone else to access, view or distribute any record, file or report, whether hard copy or electronic file format, except in accordance with department policy and with a legitimate law enforcement or business purpose or as otherwise permissible by law.

#### **806.2.1 REQUESTING ORIGINAL REPORTS**

Generally, original reports shall not be removed from the Technical Services Bureau. Should an original report be needed for any reason the requesting employee shall first obtain authorization from the Technical Services Manager. All original reports removed from the Technical Services 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 Technical Services Bureau.

### **806.3 REQUISITION OF SUPPLIES**

All personnel who are in need of supplies shall complete a Requisition of Supplies form available in the Technical Services Bureau. The form shall be approved by a supervisor and submitted to the Supply Clerk in the Technical Services Bureau.

Only Technical Services Bureau personnel shall issue supplies from the supply room, and no supplies will be provided without a Requisition of Supplies form.

### **806.4 DETERMINATION OF FACTUAL INNOCENCE**

In any case where a person has been arrested by officers of the Fullerton Police Department and no accusatory pleading has been filed, the person arrested may petition

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the Department to destroy the related arrest records. Petitions should be forwarded to the Services Supervisor. The Services Supervisor should promptly contact the prosecuting attorney and request a written opinion as to whether the petitioner is factually innocent of the charges (Penal Code § 851.8). Factual innocence means the accused person did not commit the crime.

Upon receipt of a written opinion from the prosecuting attorney affirming factual innocence, the Services Supervisor should forward the petition to the Detective Bureau Supervisor and the City Attorney for review. After such review and consultation with the City Attorney, the Detective Bureau Supervisor and the Services Supervisor shall decide whether a finding of factual innocence is appropriate.

Upon determination that a finding of factual innocence is appropriate, the Services Supervisor shall ensure that the arrest record and petition are sealed for later destruction and the required notifications are made to the California Department of Justice and other law enforcement agencies (Penal Code § 851.8).

The Services Supervisor should respond to a petition with the Department's decision within 45 days of receipt. Responses should include only the decision of the Department, not an explanation of the analysis leading to the decision.

#### **806.5 PRIVATIZED/RESTRICTED REPORTS**

Any supervisor whose duties include approval of reports shall have authority and responsibility to classify reports as "Privatized/Restricted" if it is felt the report is of a confidential nature. The supervisor should consider a report in the "Privatized/Restricted" category by the following criteria:

- Any information which might be considered detrimental to the City of Fullerton.
- Incidents involving City personnel, either on or off duty.
- Cases which might result in a suit against the City of Fullerton.

##### **806.5.1 AUTHORIZED ACCESS**

Police personnel shall not be permitted to read "Privatized/Restricted" reports or have them printed unless for the purposes of court appearances, follow-up investigation, or other instances where information contained in the report is to be used in the performance of official duty.

##### **806.5.2 IDENTIFICATION OF PRIVATIZED/RESTRICTED REPORTS**

In order to properly identify a report which a supervisor has determined to be a "Privatized/Restricted Report," the report shall be privatized and all supporting documentation will be filed in the locked "Restricted" file cabinet in Records with a Restricted Cover Sheet.

- (a) A supervisor should notify either the Technical Services Manager or the Police Records Supervisor to privatize a restricted report. The supervisor will provide a list of authorized users, who may access the report.

##### **806.5.3 VIEWING & USE OF PRIVATIZED/RESTRICTED REPORTS**

Police Department Personnel needing a copy of a "Privatized/Restricted" report shall obtain approval from the Supervisor who authorized a report to be classified as "Privatized/Restricted".

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#### **806.5.4 DESTRUCTION OF COPIES OF RESTRICTED REPORTS**

It shall be the responsibility of any officer who obtains a copy of a "Privatized/Restricted Report" to place that copy in an approved shredding bin for disposal.

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## Case Status Guidelines

### 807.1 PURPOSE AND SCOPE

This procedure provides a consistent method of establishing the status of criminal investigations of reported crimes. Case status guidelines are based on the State of California, Department of Justice, and Federal Bureau of Investigation Uniform Crime Reporting Standards Handbook.

No case may be marked as "Cleared" or "Inactive" until the case has been investigated to its fullest extent.

### 807.2 CASE STATUS

The appropriate case status will be assigned to each crime report taken by employees of this Department. The appropriate case status definitions are as follow:

**Pending Active** - The status "Active" shall be used to identify reported cases that still require active investigation. **Pending Inactive** - The status "Inactive" shall be used when the case cannot be cleared either by arrest or by other exceptional means or where, in good faith, all leads have been exhausted and it is no longer logical to continue the investigation. Active investigation on these cases will be stopped and no further reports will be expected until additional information is received to develop new leads.

**Unfounded** - An unfounded case status is a report of an offense with no factual basis that proves to be groundless. This does not apply to cases where a different offense from the one originally reported is found to have occurred. Crimes classified in error are not considered to be unfounded.

**Cleared** - Cases may be cleared by arrest or by other exceptional means. An offense is "cleared" by arrest and therefore solved for reporting purposes, when at least one person is:

- (a) Arrested,
- (b) charged with the commission of the offense and,
- (c) transported to the court for prosecution.

An offense may also be cleared when the offender is under the age of 18 years and is cited to appear in the juvenile court or before other authorities or when their case has been handled informally.

### 807.3 EXCEPTIONAL CLEARANCES

There are a number of situations where a case can be cleared without an arrest and therefore be solved. To consider a case as exceptionally cleared; the following factors shall be present:

The investigation has established the definite identity of the offender.

There is enough information to support an arrest, prepare a charge, and turn the case over to the court for prosecution or refer it to the juvenile authorities.

The exact location of the offender is known so that he/she can be taken into custody.

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### Case Status Guidelines

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There is some reason outside police control that prevents the officer from arresting, charging and prosecuting the offender.

The following examples are circumstances where an offense may be exceptionally cleared and the appropriate Clearance Code:

CLEARANCE CODE	EXAMPLES
B	The suicide, murder, or other death of an identified suspect
B	A double murder, where two persons kill each other.
B	A deathbed confession is received where the person responsible dies after making the confession.
B	The offender is killed by police.
B	A confession is received by an offender already in custody or serving a sentence.
K	The offender is prosecuted in another place for the same or a different offense by state, local or federal authorities.
B	Extradition is denied.
N	The victim refuses to cooperate in the prosecution. All of the above listed factors must be present in order to exceptionally clear this category. Additionally, this classification will not unfound the offense.
I	The handling of a juvenile offender either by counseling or by informal means or a diversion program.

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## Restoration of Firearm Serial Numbers

### 808.1 PURPOSE AND SCOPE

The primary purpose for restoring firearm serial numbers is to determine the prior owners or origin of the item from which the number has been recovered. Thus, property can be returned to rightful owners or investigations can be initiated to curb illegal trade of contraband firearms. The purpose of this plan is to develop standards, methodologies, and safety protocols for the recovery of obliterated serial numbers from firearms and other objects using procedures that are accepted as industry standards in the forensic community. All personnel who are involved in the restoration of serial numbers will observe the following guidelines. This policy complies with Penal Code § 11108.9.

### 808.2 PROCEDURE

Any firearm coming into the possession of the Fullerton Police Department as evidence, found property, etc., where the serial numbers have been removed or obliterated will be processed in the following manner:

#### 808.2.1 PRELIMINARY FIREARM EXAMINATION

- (a) Always keep the muzzle pointed in a safe direction. Be sure the firearm is in an unloaded condition. This includes removal of the ammunition source (e.g., the detachable magazine, contents of the tubular magazine) as well as the chamber contents.
- (b) If the firearm is corroded shut or in a condition that would preclude inspection of the chamber contents, treat the firearm as if it is loaded. Make immediate arrangements for a firearms examiner or other qualified examiner to render the firearm safe.
- (c) Accurately record/document the condition of the gun when received. Note the positions of the various components such as the safeties, cylinder, magazine, slide, hammer, etc. Accurately record/document cylinder chamber and magazine contents. Package the ammunition separately.
- (d) If the firearm is to be processed for fingerprints or trace evidence, process before the serial number restoration is attempted. First record/document important aspects such as halos on the revolver cylinder face or other relevant evidence that might be obscured by the fingerprinting chemicals.

#### 808.2.2 PROPERTY BOOKING PROCEDURE

Any employee taking possession of a firearm with removed/obliterated serial numbers shall book the firearm into property following standard procedures. The employee booking the firearm shall indicate on the property form that serial numbers have been removed or obliterated.

#### 808.2.3 OFFICER RESPONSIBILITY

The property officer 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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### *Restoration of Firearm Serial Numbers*

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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.

This report must include a record of the manner in which and/or from whom the firearm was received. This may appear on the request form or property form depending on the type of evidence.

#### **808.2.5 FIREARM TRACE**

After the serial number has been restored (or partially restored) by the criminalistics laboratory, the property officer 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.

#### **808.2.6 CRIMINOLOGIST'S LABORATORY EXAMINATION**

Submit the firearm to the Orange County Sheriff's Crime Lab per current protocol. Maintain the chain of custody.

#### **808.3 BULLET AND CASING IDENTIFICATION**

Exemplar bullets and cartridge cases from the firearm, depending upon acceptance criteria and protocol, may be submitted to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) National Integrated Ballistic Information Network (NIBIN) which uses the Integrated Ballistic Identification System (IBIS) technology to search the national database and compare with ballistic evidence recovered from other crime scenes.

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## Release of Records and Information

### 810.1 PURPOSE AND SCOPE

California Government Code § 6254(f) specifically identifies certain information that must be made available to the public from law enforcement records. This policy outlines Department procedures and responsibilities for release of public records, in compliance with this 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.

To assist with complying with the various Public Records Act administrative regulations the Professional Standards Bureau Sergeants, who are also our designated "Custodians of Records," will be designated as the Police Department's Public Records coordinators. Each Public Records Act request addressing the Police Department will be channeled through their office for tracking purposes and subsequent assignment for processing. This policy does not preclude the police department's Public Information Officer or the Watch Commander from answering routine questions posed by the media, nor does it preclude the Records Bureau Manager from responding to routine requests for information (e.g., statistics, crime trends, etc.).

#### 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 Services Division Commander for a determination as to whether the records will be released.

#### 810.2.2 PERSONS ENTITLED TO PUBLIC RECORDS

California Government Code § 6254(f) identifies the following parties as those to whom a police agency is required to provide information:

- (a) The victim.

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- (b) Authorized representatives are those who possess written authority from the victim. The written authority shall be in the form of a notarized signature, court order, or power of attorney.
- (c) Insurance carrier (claim made or potential claim). Insurance carrier's representative must be able to document their insured's involvement or potential for claim.
- (d) Persons, other than suspects, suffering bodily injury or property damage as a result of the incident.

### **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).
- (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.

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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 § 3303(e)).

Peace officer personnel records are deemed confidential (Penal Code § 832.7, et seq.) and shall not be made public or otherwise released to unauthorized individuals or entities absent a valid court order ( Evidence Code § 1043, et seq.).

The identity of any officer subject to any criminal or administrative investigation shall not be released without the consent of the involved officer, prior approval of the Chief of Police or as required by law (Government Code § 3300 (e)).

#### **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.

#### **810.3.7 ARREST LOG**

In an effort to keep our community informed regarding arrests of adults a daily Arrest Log will be maintained at the Front Desk for public viewing. This log will contain data for the previous thirty day period. The adult daily Arrest Log provides the arrestee name, occupation, date of birth, sex, race, charges, police case number, date and time of arrest, and the date, time and manner of release. No juvenile arrest information is contained on this log.

#### **810.3.8 PRESS LOG**

In an effort to keep our community informed on law enforcement related topics a daily Press Log will be maintained at the Front Desk for public viewing. This log will contain data for the previous thirty day period. The daily Press Log provides the location, date, time, type, circumstances and disposition of calls for service received. No juvenile or sexual assault incident information is contained in this log.

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#### **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) and 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.

#### **810.6 RELEASED RECORDS TO BE STAMPED**

Each page of any record released pursuant to a Public Records Act request or Subpoena Duces Tecum will stamp the first page of the report with red ink, using the "FULLERTON POLICE DEPARTMENT AUTHORIZED COPY" stamp.

#### **810.7 AUTHORIZATION FOR RELEASING INFORMATION**

In an effort to insure compliance with the established guidelines, each request for information to be released shall be reviewed and approved by a supervisor.

##### **810.7.1 RELEASE OF INFORMATION TO SUSPECTS LISTED IN A REPORT**

Unless authorized by an investigative supervisor, no report will be released to a suspect named in the report. If such a request is denied, the suspect should be referred to the court, who will provide them with a copy of the arrest report on their arraignment date. If release to an arrested person or to any person who may be a defendant in a criminal action is authorized, all victims and witnesses names and identifying information shall be redacted from the copy before release (Penal Code § 841.5 PC).

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#### **810.7.2 RELEASE OF INFORMATION INVOLVING JUVENILES**

Release of reports containing juvenile information are not available for release if the juvenile has been arrested, is listed as a suspect, a victim or a petition has been filed. The Presiding Juvenile Court Judge requires the requester to obtain a court order authorizing their access to such reports.

The report containing juvenile information may be released upon approval of an investigation supervisor or the Technical Services Manager if the juvenile's name, address, telephone number and parents information has been removed.

#### **810.7.3 PROCEDURES FOR RELEASING INFORMATION**

In order to minimize the unauthorized duplication of released information and to document this agency's compliance with 6254(f) of the California Government Code, the following procedures shall be followed:

#### **810.7.4 REQUEST FOR WRITTEN REPORT FPD FORM 237**

All requests for police reports must be conveyed on a FPD Form 237. Upon receipt of this form, Records Bureau personnel will copy the report for a supervisor's review.

The person requesting the report shall be notified of the review authority's decision. FPD Form 237 shall be filed with the original report.

#### **810.7.5 MAILED REQUESTS FOR WRITTEN REPORTS**

Requests received by mail for a copy of a written report must include the requester's notarized signature. If the requester is representing a victim, or party normally entitled to a written report, a waiver from the involved party must be included containing that person's notarized signature.

Records Personnel will complete FPD Form 237 and forward it, along with a copy of the mailed request and all waivers, to the appropriate supervisor for review. These "Requests for Written Report" should be returned to Records within 48 hours for further processing.



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## **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 FPD 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 Technical Services Manager is the designated Criminal Record Security Officer for the Fullerton 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)*

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#### **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) Technical Services Manager
- (c) Full-time employees of the Technical Services 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 Technical Services 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 Technical Services Bureau shall be restricted to the Technical Services Bureau personnel authorized to release it. Direct access to CORI stored in desks, file cabinets, and rooms outside the Technical Services 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)*

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#### **812.7.1 COMPUTER TERMINAL SECURITY**

Computer terminal equipment capable of providing access to automated criminal offender record information is located in the Technical Services Bureau, the Communications Center 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 Technical Services Manager, unless otherwise directed by the Services 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 Services 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 Services 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).

## Digital Photography

### 813.1 PURPOSE AND SCOPE

This policy is to establish Department guidelines for the processing, distribution and storage of images (photos) taken and stored in digital format. Refer also to § 814 for Computers and Digital Evidence.

#### 813.1.1 DEFINITIONS

**Digital Photography** - Taking pictures with a digital camera and storing and printing them on digital devices. The "digital film," which is comprised of flash memory modules, floppy disks or CD-ROM's, can be transferred to a local computer for printing.

**Digital Imaging** - is the science and process of producing and recording images in an electronic binary code fashion by action of radiant energy, light, scanning, or computer generated programs or sources for the purpose of developing and recording a latent image to be viewed in either an electronic manner or printed in a surface suitable for viewing the recorded image.

**Digital Camera** - A video or still camera that records images in digital form. Unlike traditional analog cameras that record infinitely variable intensities of light, digital cameras record discrete numbers for storage on a flash memory card, floppy disk or hard disk. As with all digital devices, there is a fixed, maximum resolution and number of colors that can be represented. The images are transferred to the computer with a serial cable, USB cable or via the storage medium itself if the desktop machine has a counterpart reader.

**Digital Film** - Solid state modules used by digital cameras to store images. They generally are some form of flash memory card such as Compact Flash, SmartMedia or Memory Stick.

**JPEG** - file exchange formats

**BMP** - windows bitmap format

**TIFF** - tagged image file format

### 813.2 LEGAL APPLICATION

Government Code § 1553 specifies that a printed representation of images stored on a video or digital medium is presumed to be an accurate representation of the images it purports to represent. This presumption is a presumption affecting the burden of producing evidence. If a party to an action introduces evidence that a printed representation of images stored on a video or digital medium is inaccurate or unreliable, the party introducing the printed representation into evidence has the burden of proving, by a preponderance of evidence, that the printed representation is an accurate representation of the existence and content of the images that it purports to represent.

### 813.3 APPLICATION

A digital camera may be used for investigations where documentation by photographs is appropriate. A digital camera may be used exclusively or in addition to 35-mm photographs or video photography. A unique advantage of digital photography is the ability of the photographer to view each image in the field for accuracy and clarity. All photos taken,

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### *Digital Photography*

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even those of poor quality, should be retained to maintain the integrity of the file numbering. Additional photo(s) should be taken to obtain the best representation of the scene or object. The employee shall document the number of images taken on a Photo Log form. The storage media (memory card or disk) shall be removed from the camera and sealed into a Digital Camera Memory Card envelope. The Photo Log corresponding to the digital images shall be attached to the envelope and placed into the designated locked drop box for digital media.

#### **813.4 DIGITAL IMAGES STORAGE**

The Lead Forensic Specialist or designee shall be responsible for collecting and downloading the digital images to a specified secure directory on the City network server. The downloaded images shall be saved to a sub-directory (folder) under the year and case number, e.g., 09-01245. The images shall not be modified from their original format during archiving. As needed to free up network storage space, selected months or years of files shall be archived to removable drives or disks. One copy will remain with the Forensic Specialist as a working copy and a second copy will be secured in a vault or other designated secure location.

##### **813.4.1 PURGING DIGITAL IMAGES**

Purging the digital images will be in accordance with existing resolution by City Council for the retention of 35-mm photographs. The appropriate case investigator or a supervisor may authorize purging of images related to a specific case. If a criminal or civil case is still pending the related digital images (as stored in a sub-directory under the corresponding case number) shall be retained until the court renders a final disposition.

##### **813.5 VIEWING OR PRINTING IMAGES**

Access for viewing or printing digital images from the database shall be limited to authorized personal only. No person shall view, copy, electronically transmit (email), or print any digital image unless it is necessary in the performance of their duty. When attempting to obtain the best possible printed reproduction of the image, the Lead Forensic Specialist or designee may enhance the photo for clarity and brightness only. Any adjustments used to create a suitable print will not be saved.

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# Computers and Digital Evidence

## 814.1 PURPOSE AND SCOPE

This policy establishes procedures for the seizure and storage of computers, personal communications devices (PCDs) digital cameras, digital recorders and other electronic devices that are capable of storing digital information; and for the preservation and storage of digital evidence. All evidence seized and/or processed pursuant to this policy shall be done so in compliance with clearly established Fourth Amendment and search and seizure provisions.

## 814.2 SEIZING COMPUTERS AND RELATED EVIDENCE

Computer equipment requires specialized training and handling to preserve its value as evidence. Officers should be aware of the potential to destroy information through careless or improper handling, and utilize the most knowledgeable available resources. [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

- (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) Book 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) [REDACTED]

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### Computers and Digital Evidence

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#### 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 forensic computer examiner for instructions or a response to the scene.

#### 814.2.2 FORENSIC EXAMINATION OF DIGITAL EVIDENCE

If an examination of the contents of the computer's hard drive, or floppy disks, optical media (CD/DVD/BluRay), cellphones, 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).

#### 814.3 SEIZING DIGITAL STORAGE MEDIA

Digital storage media including hard drives, floppy discs, optical media (CD/DVD/BluRay), 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.
- (c) [REDACTED]
- (d) [REDACTED]
- (e) If available, 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 [REDACTED]

- (a) Turn the device off when booking into property. [REDACTED]
- (b) When seizing the devices, also seize the charging units.

#### 814.5 DIGITAL EVIDENCE RECORDED BY OFFICERS

Officers handling and submitting recorded and digitally stored evidence from digital cameras and audio or video recorders will comply with these procedures to ensure the integrity and admissibility of such evidence.

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#### **814.5.1 COLLECTION OF DIGITAL EVIDENCE**

Once evidence is recorded it shall not be erased, deleted or altered in any way prior to submission. All photographs taken will be preserved regardless of quality, composition or relevance. Video and audio files will not be altered in any way.

#### **814.5.2 SUBMISSION OF DIGITAL MEDIA**

The following are required procedures for the submission of digital media used by cameras or other recorders:

- (a) The recording media (smart card, compact flash card or any other media) shall be collected by CSI personnel as soon as possible for submission into evidence.
- (b) The CSI evidence technicians are the only employees authorized to copy and/or distribute digital media made from the memory cards.
- (c) Evidence technicians will copy the memory card using to the server using "DIMMS" software. Once they have verified that the images properly transferred to the server, the technicians will erase the memory card for re-use.
- (d) Officers requiring a copy of the digital files must request a copy on the evidence form when submitted to evidence.

#### **814.5.3 DOWNLOADING OF DIGITAL FILES**

Digital information such as video or audio files recorded on devices using internal memory must be downloaded to storage media. The following procedures are to be followed:

- (a) Where possible, the device should be connected to a computer and the files accessed directly from the computer directory or downloaded to a folder on the host computer for copying to the storage media.

#### **814.5.4 PRESERVATION OF DIGITAL EVIDENCE**

- (a) Only evidence technicians are authorized to copy original digital media that is held as evidence.
- (b) Digital images that are enhanced to provide a better quality photograph for identification and investigative purposes must only be made from a copy of the original media.
- (c) If any enhancement is done to the copy of the original, it shall be noted in the corresponding incident report.



## **POST-ARREST PROCEDURES**

### **815.1 ANIMAL OR PET CARE**

The arresting officer should make a reasonable effort to ensure that animals or pets under a person's care will be provided with adequate care when that person is arrested. This is only required when there is no person to provide care and the arrestee is expected to be in custody for a time period longer than would reasonably allow him/her to properly care for the animals.

Relatives or neighbors may be contacted, with the owner's consent, to care for the animals. If no persons can be found or the owner does not consent, the appropriate animal control authority should be notified.

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**Chapter 9 - Custody (Refer to FPD Jail Operations  
Manual)**

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**Chapter 10 - Personnel**

## Recruitment and Selection

### 1000.1 PURPOSE AND SCOPE

The employment policy of the Fullerton 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 Fullerton 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.

### 1000.3 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 Fullerton 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 Fullerton 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 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.

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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 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

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#### **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

#### **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
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- (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
- (b) The following examples of illegal drug use or possession will be considered in relationship to the overall background of that individual and may result in disqualification:
  - 1. Any illegal use or possession of a drug as a juvenile

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2. Any illegal adult use or possession of a drug that does not meet the criteria of the automatic disqualifiers specified above (e.g., marijuana use longer than one year ago or cocaine use longer than three years ago.)
3. Any illegal or unauthorized use of prescription medications



## Evaluation of Employees

### 1002.1 PURPOSE AND SCOPE

The objective of the evaluation system is to record work performance for both the Department and the employee giving recognition for good work and providing a guide for improvement where needed. The employee performance evaluation report is a gauge in measuring performance and is used for making personnel decisions relating to merit increase, promotion, reassignment, discipline, demotion and termination. The report also provides a guide for mutual work planning and review and an opportunity to convert general impressions into a more objective history of work performance based on job standards.

### 1002.2 POLICY

Employee performance evaluations will be written based on job related factors specific to the position occupied by the employee. Each evaluation will cover a specific period and should be based on performance during that period. The employee's immediate supervisor will complete each evaluation. Other supervisors directly familiar with the employee's performance during the rating period should be consulted by the immediate supervisor for their input.

All sworn and civilian supervisory personnel shall be sent to a POST approved supervisory course that includes training on the completion of performance evaluations within one year of the supervisory appointment.

Each supervisor should discuss the tasks of the position, standards of performance expected, and the evaluation rating criteria with each employee at the beginning of the rating period. When a non-probationary employee's job performance falls below the established standards of the job, the supervisor should, as soon as practical, but at least 90 days prior to the end of the annual evaluation period, advise the employee in writing in order to provide an opportunity for the employee to improve performance. The involved employee will be provided the opportunity to initial any such writing and respond in writing within 30 days, if desired. Failure to meet established performance standards is justification for an unsatisfactory rating. Rating factors that are not observed are assumed to be performed at a standard level.

### 1002.3 RESERVE OFFICER EVALUATIONS

Reserve officer evaluations are covered under Policy Manual § 350.

### 1002.4 EVALUATION PROCESS

The evaluation forms are self-explanatory. With the exception of Patrol Officers, the forms are designed to allow the evaluator to mark the appropriate categories and make comments related to that area. Patrol Officer evaluation forms are designed to rate the patrol officer on problem solving skills and Community Oriented Policing methods in addition to areas evaluated for other employees.

#### 1002.4.1 JOB SPECIFIC GOALS AND OBJECTIVES

Evaluators need to focus on job specific performance factors related to each employee and their particular assignment. For instance traffic officers are tasked with an overall mission to reduce traffic collisions, increase public awareness and provide for a safer

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community. Therefore, proactive and conscientious enforcement is a factor in measuring their performance. One measure of that effort is shown by thoughtful analysis of yearly accident data and historical enforcement activity records. Investigators mission is in the successful investigation and prosecution of crimes and case management. Patrol Officers have a much broader range of missions that would include thorough field investigations, response times to calls, traffic enforcement and drug interdiction. Therefore, the evaluator and the employee need to discuss the expectations of each assignment and focus their training and work product on meeting the goals and objectives of that assignment.

#### **1002.5 EVALUATORS**

Evaluation of employees shall be completed by the employee's immediate supervisor(s). It is the responsibility of the immediately supervisor(s) to ensure that all personnel under his/her supervision are evaluated in the timely manner as prescribed in this procedure.

##### **1002.5.1 RATINGS**

When completing the Employee Performance Evaluation, the rater will place a check mark in the column that best describes the employee's performance. The definition of each rating category is as follows:

**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 unsatisfactory or outstanding shall be substantiated in the rater comments section.

#### **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. If the employee has valid and reasonable protests of any of the ratings, the supervisor may make appropriate changes to the evaluation. 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. Permanent employees may also write comments in the Employee Comments section of the performance evaluation report.

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#### **1002.7 PROCESS FOR COMPLETION**

The following process shall be followed when completing an evaluation on an employee:

- (a) After completion, supervisors shall forward the completed evaluation(s) to their Watch Commander who will review and forward to the appropriate Division Commander.
- (b) The Division Commander will review the evaluation, make comments as appropriate, and sign the evaluation. The Division Commander will return the evaluation to the evaluating supervisor for review with the employee.
- (c) The employee being evaluated may make comments on the evaluation and then sign the evaluation.
- (d) The evaluation is returned to Administration for review of employee comments by the Division Commander and inclusion in the employee's personnel file.

#### **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 a minimum of five years from the date of completion.

## 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 or Association representative.

Specifically outside the category of grievance are complaints related to alleged to the complaint options set forth in Policy Manual § 328, and personnel complaints set forth in Policy Manual §1020.

### 1006.2 PROCEDURE

The grievance procedures are specifically outlined in the City employee bargaining agreements (Memorandum of Understanding). In the Police Officer Association MOU it is in article 45. In the Municipal Employees Federation MOU it is outlined in article 54.

Refer to either of the applicable articles for the current procedures.

### 1006.3 EMPLOYEE REPRESENTATION

Employees are entitled to have representation during the grievance process.

### 1006.4 GRIEVANCE RECORDS

At the conclusion of the grievance process, all documents pertaining to the process shall be forwarded to Service Division for inclusion into a secure file for all written grievances, if the grievance was resolved at the Department level.

If Human Resource is engaged in the grievance procedure then all documents pertaining to the process shall be retained by the Human Resource Department.

## 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 Services Supervisor shall submit in a timely manner a notice to the Commission on Peace Officer Standards and Training (POST) of any appointment, termination, reinstatement, name change or status change regarding any peace officer, reserve peace officer, public safety dispatcher and records supervisor employed by this department (11 CCR § 9040).

The Services Supervisor shall submit in a timely manner a notice to POST of a felony conviction or Government Code § 1029 reason that disqualifies any current peace officer employed by this department or any former peace officer if this department was responsible for the investigation (11 CCR § 9041).

### 1010.2 DOMESTIC VIOLENCE CONVICTIONS AND RESTRAINING ORDERS

California Penal Code § 29805 prohibits any person convicted of certain offenses including, but not limited to Penal Code §§ 273.5, 273.6 and 646.9, from lawfully possessing a firearm. Pursuant to the Federal Domestic Violence Gun Control Act (18 USC § 921(a) and 18 USC § 922(d)), any person who has been convicted of a misdemeanor domestic violence offense is prohibited from possessing any firearm or ammunition. Because such offenses may include any conviction involving 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), employees shall promptly report any and all convictions of such nature.

Federal law also prohibits firearm possession by any individual who is the subject of a domestic violence restraining order. While this federal restriction does not apply to temporary restraining orders (18 USC § 922(d)(8)), California Family Code § 6389 does prohibit any individual from lawfully possessing a firearm if they are currently the subject of a domestic violence restraining order (including temporary and emergency orders). As such, employees shall promptly notify the Department if they become the subject of any temporary, emergency or permanent domestic restraining order.

### 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.

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#### **1010.4 REPORTING PROCEDURE**

All employees of this department and all retired officers with a CCW endorsement 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.

All sworn employees and all retired officers with a CCW endorsement shall further promptly notify their immediate supervisor (or the Chief of Police in the case of retired officers) in writing if the employee becomes the subject of a domestic violence restraining order issued by a court of competent jurisdiction.

Any employee whose criminal conviction unduly restricts or prohibits that employee 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 employee 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 intent of this policy is to deter the misuse or abuse of legal or illegal substances that create a threat to the safety and health of any employee or member of the public. The Fullerton Police Department discourages alcohol and drug abuse and strives to achieve a workforce free from the influence of drugs and alcohol.

## **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. Employees may also 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) (29 CFR 825).

### **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.

Sick leave is not considered vacation, and abuse of sick leave may result in discipline and/or denial of sick-leave benefits.

#### **1014.2.1 NOTIFICATION**

Employees are encouraged to notify the 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 the illness precludes their ability to notify a supervisor, prior to beginning of their shift, then notification should be made as soon as practical. If an employee is unable to contact the supervisor in the case of an emergency, every effort should be made to have a representative contact the supervisor.

When the necessity for leave is foreseeable, such as an expected birth or planned medical treatment, the employee shall, whenever possible, provide the Department with no less than 30-days notice of the intent to take leave.

#### **1014.2.2 SICK LEAVE REQUESTS**

Upon return to work, employees shall complete a City of Fullerton "Leave Request" form and submit it to their supervisor.

### **1014.3 EXTENDED ILLNESS**

Employees absent from duty due to personal illness in excess of three consecutive days may be required to furnish a statement from their health care provider supporting the use of sick leave and/or the ability to return to work.

Nothing in this section precludes a supervisor, with cause, from requiring a physician's statement if three or fewer sick days are taken.

#### **1014.3.1 PRE-EXISTING RETURN DATES**

Extended absences with pre-existing return dates registered with the supervisor and/or Human Resources will preclude the three-day interval requirement. However, the supervisor shall be notified as soon as practical, if there is any medical condition change that would modify the pre-existing return date.



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#### **1014.4 SUPERVISOR RESPONSIBILITY**

Supervisors should monitor sick leave abuse 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 abuse in the employee's performance evaluation. When appropriate, supervisors should counsel employees regarding the sick leave abuse 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 Training Officer of the Personnel and Professional standards Bureau will act as the Department's Exposure Control Officer. The Exposure Control Officer (ECO) shall be responsible for the following:

- (a) The overall management of the BBP 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) The ECO will work with management to develop and administer any additional related policies and practices necessary to support the effective implementation of this plan and remain current on all legal requirements concerning BBP and other communicable diseases.
- (d) The ECO will act as a liaison during OSHA inspections and shall conduct program audits to maintain an up-to-date exposure control plan.
- (e) The ECO will maintain an up-to-date list of police personnel requiring training, develop and implement a training program, maintain class rosters and quizzes, and periodically review the training program.
- (f) The ECO will review and update the Exposure Control Plan annually (on or before January 1st of each year).

Department supervisors are responsible for exposure control in their respective areas. They shall work directly with the ECO and the 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 be disposed of as contaminated waste. Care should be taken to avoid touching other items

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(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 Fullerton 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 Policy

### **1018.1 PURPOSE AND SCOPE**

The Surgeon General has determined that second-hand smoke is hazardous to health. Tobacco products may also be offensive to employees and the public.

### **1018.2 POLICY**

Smoking and other use of tobacco products is not permitted inside department facilities or any department vehicle. It shall also be the responsibility of all employees to ensure that no person smokes or uses any tobacco product inside department facilities and vehicles.

No person shall smoke 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.).

Employees in uniform are also prohibited from smoking or using tobacco products while in public view.

## Personnel Complaint Procedure

### 1020.1 PURPOSE AND SCOPE

The purpose of this procedure is to provide guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members and employees of this department.

#### 1020.1.1 PERSONNEL COMPLAINTS DEFINED

Personnel complaints consist of any allegation of misconduct or improper job performance against any department employee that, if true, would constitute a violation of department policy, federal, state or local law.

Inquiries about employee conduct which, even if true, would not qualify as a personnel complaint may be handled informally by a department supervisor and shall not be considered complaints.

This policy shall not apply to any interrogation, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of an employee in the normal course of duty, by a supervisor or any other employee, nor shall this policy apply to an investigation concerned solely and directly with alleged criminal activities (Cal. Govt. Code 3303(i)).

Personnel Complaints shall be classified in one of the following categories:

**Informal** - A matter in which the complaining party is satisfied that appropriate action has been taken by a department supervisor of rank greater than the accused employee. Informal complaints need not be documented on a personnel complaint form and the responsible supervisor shall have the discretion to handle the complaint in any manner consistent with this policy.

**Formal** - A matter in which the complaining party requests further investigation or which a department supervisor determines that further action is warranted. Such complaints may be investigated by a department supervisor of rank greater than the accused employee or referred to the Professional Standards Bureau depending on the seriousness and complexity of the investigation.

**Inquiry**- This refers to actual inquiries or to statements which initially appeared to be complaints but were subsequently found to be based on a misunderstanding by the complaining party and which the complaining party withdraws his or her complaint during discussion of the matter with a supervisor. An Inter Office Letter will be used to document all inquiries that are within this category. All completed letters will be forwarded to the appropriate Division Commander's office. All inquiries will be retained by the Professional Standards Bureau Sergeants and destroyed pursuant to City Council resolution regarding the destruction of records defined as miscellaneous correspondence.

- (a) **Explained** - This term refers to the disposition of an "inquiry" which initially appeared to be, but is not in fact, a complaint. The term is not to be used to indicate the disposition of a complaint. Inter Office Letters will be used to document all inquiries that are within this category. All completed letters will be forwarded to the appropriate Division Commander's office.

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#### **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.

##### **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 on an Interoffice Letter directed to the employee's Division Commander.

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.

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#### **1020.2.5 INTERVIEW OF COMPLAINANT**

Parties making a complaint shall be interviewed in private by the investigating supervisor. They shall not be required to explain their complaint at the desk or in the presence of other officers.

- (a) The interviewer shall display objectivity and impartiality during the interview. They shall not indicate either approval or disapproval of the conduct complained of until all facts have been presented. The interview should be conducted in as private a setting as possible.
- (b) The interviewer should strive to obtain precise details of the complaint. General statements, such that a person is being harassed by police, are insufficient to warrant investigation. Such statements must be supported with details of particular incidents. Whenever possible, a statement written by the complaining party detailing the basis of the complaint shall be obtained. Statements written by or for a complaining party should be reviewed for accuracy and then signed by the complainant. If a complainant refuses to sign the complaint form, the interviewer receiving the complaint will write, "declined" on the signature line, initial the entry, and continue with the interview.
- (c) When the complaining party obviously misunderstands certain facts, or is mistaken as to legal rights and duties of a police officer, the interviewer may inquire whether the person realizes that their understanding is incorrect. Where such an explanation satisfies the party, the matter may be treated as an inquiry and documented in accordance with policy § 1020.1.1.
- (d) The interviewing supervisor should not commit the Department to any particular course of action concerning the complaint. This can be circumvented by explaining that the initial interview is the first step in the procedure, which will continue to process the complaint and investigation. The complainant should be informed they will receive a written acknowledgment of the complaint along with notification of the disposition reached by Staff.
- (e) All information given by the complainant during the initial interview is to be documented as thoroughly as possible. Any information, which clarifies the circumstances or the complaining party's statement, should also be documented. Statements written by or for, complaining parties should be reviewed with that party for accuracy and then signed by the complainant. This process avoids exaggeration of the complaint at a later time and loss of essential facts pertinent to the allegation.
- (f) Obtain adequate identification from the complaining party, including where and how they may be reached for future contacts. (Previous complaints have been found "not sustained" because the original complainant could not be located or contacted after making the complaint.) This information should include a work location and a permanent address for the complainant.
- (g) Assure the complaining party that immediate action will be taken to investigate the complaint and encourage him/her to re-contact the interviewing supervisor to provide additional information or to determine the status of the continuing investigation.
- (h) Where the complaint alleges a loss of property, property damage, injury, etc., the interviewing supervisor should attempt to verify and the loss and photograph any injury at the time of the complaint. In the case of lost property, locations where the complainant has been should be immediately checked to ensure that the property has not been misplaced or otherwise hidden from view.
- (i) The complaining party should also be provided with a copy of his/her own original complaint (Penal Code § 832.7).

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#### **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)).

In general, the primary responsibility for the investigation of a personnel complaint and ensuing investigation shall rest with the supervisor who first accepts the complaint. The Chief of Police or authorized designee may, however, direct that another supervisor investigate the complaint. The investigating 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, Division Commander and Chief of Police are notified within 48 hours or 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 Division Commander of the accused employee, via the chain of command, who will take appropriate action and forward a copy of the complaint to the Professional Standards Bureau for further action or monitoring.
  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. The Investigating Supervisor shall conduct the investigations in a timely and thorough manner and shall notify his immediate supervisor or Division Commander if additional time or resources are needed to complete the investigation.
- (a) 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.
- (b) 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**

The Division Commander or Chief of Police, or their designee, may assign the accused employee to inactive duty pending completion of the investigation or the filing of administrative charges; particularly 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.

##### **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

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- (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 may be temporarily reassigned to a different shift (generally normal business hours) during the pendency of the investigation and the employee may be 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 Commander 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

#### **1020.5 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 and the employee's Division Commander 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 action, other than being placed on 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 Bureau, 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)).
- (b) No more than two interviewers may ask questions of an accused employee (Government Code § 3303(b)).

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- (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. (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 two (2) hour notice that the search will take place (Government Code § 3309).

#### **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.

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**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.

#### **1020.6.3 DEPARTMENT RECORDS**

Investigations by a supervisor should include a review of the Department's records regarding both the complaining party and the officer about whom the complaint is made. It is proper for a complaint investigation to document when our records indicate a citizen has made prior complaints of a similar nature, the disposition of those complaints, and whether the officer(s) has or has not had similar complaints filed against them in the past.

#### **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 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.

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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.

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 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 formal personnel complaints shall be maintained for a period of no less than five years. (Penal Code § 832.5) All non-citizen (e.g., those that originate internally) initiated complaints shall be maintained no less than 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 Bureau apart from the employee's personnel file.

#### **1020.9 RESPONSIBILITIES**

The **Chief of Police** has the ultimate responsibility for the disposition of any complaint, for taking appropriate disciplinary action against an employee for a sustained complaint, and for overseeing the investigation of any complaint involving alleged criminal conduct by an employee.

##### **1020.9.1 DIVISION COMMANDER**

The Division Commander shall review the initial interview report and shall determine if further investigation is required before Staff considers the matter. He/she shall make assignments for this purpose as may be required and shall establish procedures to ensure prompt investigation and return of the completed documentation.

In exceptional situations, the Division Commander of the accused employee may elect, upon recommendation from the officer's immediate supervisor, to assign other investigators to assist or take charge of the investigation. The assignment of an investigator outside the division or Department must be approved by the Chief of Police.

##### **1020.9.2 STAFF CONSIDERATION**

As soon as the Division Commander has received the full investigative report (or before if, in his opinion, the matter warrants such prior consideration), it shall be submitted to the

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other members of the Staff for consideration. After full consideration of the matter, the Staff shall make a disposition of the complaint by classifying it as indicated in Policy Manual § 1020.7.

#### **1020.10 PUBLIC REVIEW OF COMPLAINT PROCEDURES**

Upon request, a copy of the "Personnel Complaint Procedure" will be furnished to citizens for reading. A reasonable period shall be allowed for such person(s) to read the procedure, after which it is to be returned to the files so it may be made available to others. A copy of this complaint procedure may be provided to the citizen at his or her own expense.

## 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 employees 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 employee driving such a vehicle shall ensure that all other occupants, including non-employees, 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 officer or the public. Employees must be prepared to justify any deviation from this requirement.

#### 1022.2.1 TRANSPORTING CHILDREN

Children under the age of 6 or who weigh less than 60 pounds 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. Officers should use seat belts or prisoner restraint system for prisoners whenever the prisoner is cooperative enough so that this can be accomplished safely.

### 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.

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### *Seat Belt Procedure*

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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.

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.

## **Flashlight Equipment & Supplies**

### **1023.1 PURPOSE AND SCOPE**

It is a goal of the Department to issue every Officer, including Reserve Officers, a rechargeable flashlight and a charger. Additional flashlights that meet the standards of the Fullerton Police Department Training Bureau can be carried by Officers at their own expense.

### **1023.2 FLASHLIGHT EQUIPMENT FURNISHED BY THE DEPARTMENT**

It shall be the responsibility of the Professional Standards Bureau to control the issuing, repair and replacement of assigned flashlights and maintain records as required.

### **1023.3 WEAPON MOUNTED FLASHLIGHT**

All sworn personnel may carry on their weapon a Department approved Weapon Mounted Flashlight. The light shall be purchased by the individual officer. The Weapon Mounted Flashlight shall be mounted on their duty weapon by the department approved Range Master.

## 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 Fullerton 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 Services Division Commander or his designee shall ensure that body armor is issued to all officers and that the body armor meets or exceeds the standards of the National Institute of Justice when issued.

Body armor shall be issued by the Training Bureau when an officer begins service at the Fullerton Police Department and shall be replaced when the body armor becomes worn or damaged to the point that its effectiveness or functionality has been compromised.

#### 1024.3.1 USE OF BODY ARMOR

- (a) Officers shall only wear agency-approved body armor.
- (b) Officers shall wear body armor anytime they are in a situation they could reasonably be expected to take an 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 they are involved in undercover or plain clothes work that their 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 CARE, MAINTENANCE AND REPLACEMENT OF BODY ARMOR

Officers should routinely inspect personal body armor for signs of damage and for general cleanliness.

Because dirt and perspiration may erode ballistic panels, each officer shall be responsible for cleaning personal body armor in accordance with the manufacturer's instructions. Officers are responsible for the proper storage, maintenance and care of body armor in accordance with manufacturer's instructions.

Officers are responsible for reporting damage or excessive wear to the ballistic panels or cover to their supervisor and the individual responsible for the uniform supply function.

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### *Body Armor*

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#### **1024.3.3 TRAINING BUREAU RESPONSIBILITIES**

The Training Officer in conjunction with the Rangemaster should:

- (a) Monitor technological advances in the body armor industry for any appropriate changes to 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.

#### **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.



## **Ballistic Helmets**

### **1025.1 PURPOSE AND SCOPE**

A ballistic helmet provides additional protection to officers in situations where there is a potential increased risk of head injury. It is the goal of the Department to issue every Officer and Reserve Officer, a ballistic helmet and carrying case. Officers assigned to motorcycle duty are not assigned ballistic helmets.

#### **1025.1.1 DEPARTMENT ISSUED HELMET**

It shall be the responsibility of the Professional Standards Bureau to control the issuing, repair and replacement of assigned ballistic helmets and carrying cases and maintain records as required.

#### **1025.1.2 OFFICER RESPONSIBILITY**

Officers assigned a ballistic helmet and carrying case are responsible for the care and handling of this equipment.

#### **1025.1.3 BALLISTIC HELMET AVAILABILITY AND USE**

Uniformed officers shall carry, while on duty in their patrol unit, their issued ballistic helmet. The ballistic helmet shall be maintained inside the issued carrying case and shall be immediately available in the following situations:

- (a) Officers and supervisors assigned to patrol, while on patrol.
- (b) Officers working authorized outside overtime assignments where the potential for additional head protection is apparent.
- (c) In a situation where an officer feels the protection of the helmet may be necessary.
- (d) When directed by a supervisor.

## 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 in the office of the Chief of Police 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.

**Medical File** - That file which is maintained separately that exclusively contains material relating to an employee's medical history.

### 1026.4 CONFIDENTIALITY OF ALL PERSONNEL FILES

Pursuant to Penal Code § 832.7, all of the above-defined personnel records shall be deemed confidential and shall not be subject to disclosure except pursuant to the discovery

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### *Peace Officer Personnel Files*

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procedures set forth in Evidence Code § 1043, et seq. or in accordance with applicable federal discovery laws. Nothing in this section is intended to preclude review of personnel files by the City Manager, City Attorney or other attorneys or representatives of the City in connection with official business.

#### **1026.5 REQUESTS FOR DISCLOSURE**

Only written requests for the disclosure of any information contained in any peace officer personnel record will be considered. Since the format of such requests may be strictly governed by law with specific responses required, all such requests shall be promptly brought to the attention of the Watch Commander, the Custodian of Records or other person charged with the maintenance of such records.

Upon receipt of any such request, the responsible person shall notify the affected employee(s) as soon as practicable that such a request has been made (Evidence Code § 1043(a)).

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this will require assistance of approved and available legal counsel.

All requests for disclosure, which result in access to an employee's personnel file(s), shall be logged in the corresponding file.

#### **1026.5.1 RELEASE OF CONFIDENTIAL INFORMATION**

Except as provided by this policy or pursuant to lawful process, no information contained in any confidential peace officer personnel file shall be disclosed to any unauthorized person(s) without the expressed prior consent of the involved officer or written authorization of the Chief of Police or his or her designee.

Any person who maliciously, and with the intent to obstruct justice or the due administration of the laws, publishes, disseminates, or otherwise discloses the residence address or telephone number of any member of this department may be guilty of a misdemeanor (Penal Code § 146e).

Pursuant to Penal Code § 832.7(e), the disposition of any citizen's complaint shall be released to the complaining party within 30 days of the final disposition. This release shall be limited to the disposition and shall not include what discipline, if any was imposed.

The Department may also release any factual information concerning a disciplinary investigation if the officer who is the subject of the investigation (or the officer's representative) publicly makes 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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### *Peace Officer Personnel Files*

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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) Portions of Internal Affairs files which have been deemed confidential.
  - 1. Such files shall not be used for any personnel purposes.

#### **1026.6.1 PERSONNEL FILE ACCESS PROCEDURE**

Employees are authorized to access their personnel files subject to the following:

- (a) Employees may view or obtain copies of their personnel file.
- (b) Access to files will be scheduled on an appointment basis.
- (c) Requests for copies of any or the entire personnel file will be completed as soon as practical, but no later than 5 business days.
- (d) Copying of files will be at the direction of the Chief's Secretary or his/her designee.
- (e) Viewing of personnel files will be done in the presence of administrative clerical staff.
- (f) Personnel files will not be taken from the immediate area of Administration.
- (g) Copies of files will be at no cost to the employee.

For purposes of this section, access means visually inspecting the employee's own personnel file or requesting copies be made.

#### **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 Services Division Commander or immediate supervisor with evidence of completed training/education in a timely manner.
  - 2. The Services Division Commander 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).

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3. Investigations of complaints which result in a finding of not-sustained, unfounded or exonerated shall not be placed in the employee's department file, but will be separately maintained for the appropriate retention period in the internal affairs file.
- (d) Adverse comments such as supervisor log entries may be retained in the department file or division file after the employee has had the opportunity to read and initial the comment and for a period up to two years Government Code § 3305.
  1. Once an employee has had an opportunity to read and initial any adverse comment prior to entry into a file, the employee shall be given the opportunity to respond in writing to such adverse comment within 30 days (Government Code § 3306).
  2. Any such employee response shall be attached to and retained with the original adverse comment.
  3. If an employee refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original comment. Such a refusal, however, shall not be deemed insubordination nor shall it prohibit the entry of the adverse comment into the employee's file.
- (e) Commendations shall be retained in the employee's department file, with a copy provided to the involved employee.
- (f) Personnel Action Reports reflecting assignments, promotions and other changes in the employee's employment status shall be permanently retained.
- (g) A photograph of the employee shall be permanently retained.

#### **1026.7.2 DIVISION FILE**

The Division File should contain, but is not limited to, the following:

- (a) Supervisor log entries, notices to correct and other materials intended to serve as a foundation for the completion of timely Performance Evaluations
  1. All materials intended for this interim file shall be provided to the employee prior to being placed in the file in accordance with Government Code §§ 3305 and 3306.
  2. Duplicate copies of items that will also be included in the employee's department file may be placed in this interim file in anticipation of completing any upcoming performance evaluation.
  3. Commendations and awards as determined job related by a supervisor.
  4. 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 Bureau 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 Bureau. These files shall contain:

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- (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 Professional Standards Bureau for each employee. Training files will contain records of all training (original or photocopies of available certificates, transcripts, diplomas and other documentation) and education.

- (a) It shall be the responsibility of the involved employee to provide the Services Division Commander or immediate supervisor with evidence of completed training/education in a timely manner
- (b) The Services Division Commander 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).

Performance Evaluations may be purged no sooner than five years after the evaluation was completed in accordance to the City's Records Retention Schedule.

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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 and Government Code § 26202).

- (a) Each supervisor responsible for completing the employee's performance evaluation shall also determine whether any prior sustained disciplinary file should be retained beyond the statutory period for reasons other than pending litigation or other ongoing legal proceedings.
- (b) If a supervisor determines that records of prior discipline should be retained beyond the applicable statutory period, approval for such retention shall be obtained through the chain of command from the Chief of Police.
- (c) During the preparation of each employee's performance evaluation, all complaints and discipline should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development. If, in the opinion of the Chief of Police, a complaint or disciplinary action beyond the statutory retention period is no longer relevant, all records of such matter may be destroyed pursuant to resolution.

#### **1026.9 BRADY MATERIAL IN PERSONNEL FILES**

The purpose of this section is to establish a procedure for releasing potentially exculpatory information (so-called Brady material) contained within confidential peace officer personnel files.

##### **1026.9.1 DEFINITIONS**

**Brady Material** - In the Brady v. Maryland decision ( 373 U.S. 83 (1963)) the United States Supreme Court held that the prosecution has an affirmative duty to disclose to the defendant evidence which is both favorable and material to the guilt and/or punishment of the defendant.

**The Prosecution** - Refers to the District Attorney and all investigative agencies involved in the criminal prosecution of a defendant, including this department.

**Penal Code § 1054.1** - California law also establishes a criminal defendant's right to access potentially exculpatory evidence.

##### **1026.9.2 RELEASE OF PERSONNEL FILES TO DISTRICT ATTORNEY**

Pursuant to Penal Code § 832.7(a), the only time the District Attorney (Attorney General or Grand Jury) is entitled to access confidential peace officer personnel files without filing a so-called Pitchess motion (Evidence Code § 1043 et seq.) is when they are investigating the conduct of an officer or this department. Such access shall not be considered a waiver of the confidentiality of the information contained in these files.

Absent a specific investigation of identified officer(s) or a specific investigation of this department (or the consent of an involved officer), no confidential information from any officer's personnel file shall be released to the District Attorney or Grand Jury without full compliance with the Pitchess process. The prosecution of a criminal defendant is not considered an investigation of any involved officer.

Should an officer's credibility or other issues related to an officer's personnel file arise in the context of an officer acting as a witness for the prosecution, access to that officer's personnel file by either the District Attorney or the criminal defendant shall be limited to that which is authorized by the process set forth in Evidence Code § 1043, et seq.

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#### **1026.9.3 PROCEDURE**

If an officer is a material witness in a criminal case, a person or persons designated by the Chief of Police may examine the subject officer's personnel file to determine whether there are Brady materials contained therein (e.g., evidence which is both favorable and material to the guilt and/or punishment of the defendant). If Brady material is located, the following procedure shall apply:

- (a) In the event that a Pitchess motion has not already been filed by the criminal defendant or other party, the District Attorney shall be notified of the potential presence of Brady material in the officer's personnel file
- (b) The District Attorney should be instructed to file a Pitchess motion in order to initiate an in camera review by the court
- (c) As with any Pitchess motion, and prior to any review of the files by the court, subject officer(s) shall be notified in writing that a Pitchess motion has been filed
- (d) The responsible Custodian of Records shall accompany all relevant personnel files during any in camera inspection and address any issues or questions raised by the court in determining whether or not any material contained in the file is both material and favorable to the criminal defendant
- (e) If the court determines that there is relevant Brady material contained in the file(s), only that material ordered released will be copied and released to the parties filing the Pitchess motion
  1. Prior to the release of any materials pursuant to this process, the Custodian of Records shall request a protective order from the Court limiting the use of such materials to the involved case and requiring the return of all copies upon completion of the case.



## **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**

Personnel wishing a change of assignment are to complete a Request for Change of Assignment form. The form should then be forwarded through the chain of command to their Division Commander.

#### **1028.2.1 PURPOSE OF FORM**

The form 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.

All assignments an employee is interested in should be listed on the form.

The Request for Change of Assignment form will remain in effect until the end of the calendar year in which it was submitted. Effective January 1<sup>st</sup> 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 Commander 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 Commander. If the Watch Commander does not receive the Change of Assignment Request Form, the Division Commander will initial the form and return it to the employee without consideration.

## **Employee Commendations**

### **1030.1 PURPOSE AND SCOPE**

Special recognition may be in order whenever an employee performs his/her duties in an exemplary manner. This procedure provides general guidelines for the commending of exceptional employee performance.

### **1030.2 WHO MAY MAKE COMMENDATIONS**

A written commendation may be made by any supervisor regarding any other employee of the Department, provided the reporting person is superior in rank or is the person-in-charge of the individual being commended. Additionally, investigating officers may commend uniformed officers for exceptional assistance in investigative functions, with approval from the investigator's supervisor. Any employee may recommend a commendation to the supervisor of the employee subject to commendation.

### **1030.3 COMMENDABLE ACTIONS**

A meritorious or commendable act by an employee of this department may include, but is not limited to, the following:

- Superior handling of a difficult situation by an employee
- Conspicuous bravery or outstanding performance by any employee of the Department
- Any action or performance that is above and beyond the typical duties of an employee

#### **1030.3.1 COMMENDATION INCIDENT REPORT**

The Commendation Incident Report (FPD form 281) shall be used to document the commendation of the employee and shall contain the following:

- (a) Employee name, bureau, and assignment at the date and time of the commendation
- (b) A brief account of the commendable action shall be documented on the form with report numbers, as appropriate
- (c) Signature of the commending supervisor

Completed reports shall be forwarded to the appropriate Division Commander for his/her review. The Division Commander shall sign and forward the report to the Chief of Police for his/her review.

The Chief of Police will return the commendation to the employee for his/her signature. The report will then be returned to the Administrative Secretary for entry into the employee's personnel file.

## Department Service Awards Program

### 1031.1 PURPOSE AND SCOPE

The Departmental service awards program officially recognizes the outstanding heroic, life saving and distinguished service act(s) performed by members of the Fullerton Police Department as well as contributions by members of the community. Commendations may be awarded posthumously.

### 1031.2 DEPARTMENT SERVICE AWARDS

There are five levels of awards:

#### 1031.2.1 MEDAL OF VALOR

**Criteria:** The Departmental service awards program officially recognizes the outstanding heroic, life saving and distinguished service act(s) performed by members of the Fullerton Police Department as well as contributions by members of the community. Commendations may be awarded posthumously.

#### 1031.2.2 MEDAL OF BRAVERY

**Criteria:** An act of bravery which may have been life threatening. The act was above and beyond the call of duty, but to a lesser degree than needed for a Medal of Valor. This also includes any act of courage in which the recipient exposes himself/herself to hazardous conditions while displaying courage and devotion to duty while using excellent judgment in accomplishing their mission.

#### 1031.2.3 LIFE SAVING MEDAL

**Criteria:** Awarded to any employee who distinguishes himself/herself by performing an exceptional act, in the line of duty, which through disregard of personal safety, or by prompt and alert action, resulted in the saving of a human life.

#### 1031.2.4 DISTINGUISHED SERVICE MEDAL

**Criteria:** Awarded to any employee who distinguishes himself/herself by performing an exceptional act, in the line of duty, which through disregard of personal safety, or by prompt and alert action, resulted in the saving of a human life.

#### 1031.2.5 COMMUNITY MEMBER DISTINGUISHED SERVICE AWARD

**Criteria:** Awarded to any community member who substantially contributes to the apprehension of any suspect in a serious crime, or where, in any other emergency or situation where the community member's actions made an extraordinary contribution to the Department.

### 1031.3 DEPARTMENT AWARDS COMMITTEE

The Awards Committee will be chosen by Staff and will serve a minimum term of two (2) years at which time Staff may select new members. The Committee will be convened as necessary to plan and coordinate the annual awards ceremony.

The Awards Committee shall consist of the following:

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- (1) Lieutenant (Chairperson)
- (1) Sergeant (1) Corporal
- (1) Officer
- (1) Non-sworn member

#### **1031.4 REPORTING ACTS OF COMMENDATION**

A Commendation Report (FPD Form 712) or an interoffice letter shall be used to recommend awards. The report shall give a detailed description of the act(s) for each individual employee. Charts, diagrams, photographs, witness accounts, news accounts, etc., may be used. The report will be submitted in the following manner:

Any employee may submit a commendation report for consideration through their respective Division Commander. The report will be reviewed by the Division Commander and a recommendation will be made as to which award will be presented, if any, to the Chief of Police. All reports, whether or not an award is given, shall be placed in the employee's personnel file. Final approval of all awards and the deadline for submitting reports will be at the discretion of the Chief of Police.

#### **1031.5 RECOGNITION OF EMPLOYEES**

Each employee will be presented with a medal, ribbon, and Letter of Commendation for the award received. The employee will be presented the award at an annual awards ceremony.

##### **1031.5.1 WEARING OF DEPARTMENTAL DECORATIONS**

The Medal of Valor, Medal of Bravery, Life Saving Medal and the Distinguished Service Medal will be signified by a formal "Olympic-type" neck medal and a military-type service ribbon. All of these awards will be accompanied by a formal letter explaining the act or acts. The letter shall be no more than one typed page on official Department letterhead.

Sworn personnel will be allowed to wear their drape medal on their Class "A" uniforms and the ribbon on their Class "B" uniforms. When worn, the ribbon will be located on the pocket flap of the left breast pocket. It will be centered directly below the badge, with the top of the medal or ribbon aligned with the top seam of the pocket flap.

Non-sworn personnel will be presented with the same medal, ribbon, and formal letter explaining the act or acts involved. When an employee receives the same award more than once, the second and subsequent awards will be indicated by a bronze oak leaf cluster. The oak leaf cluster will be worn on the left side of the ribbon of the Medal and shall be placed in the center of the ribbon, centered up and down. Each subsequent award will then be evenly centered. A silver oak leaf cluster will be worn in lieu of five (5) bronze oak leaf clusters.

#### **1031.6 RECOGNITION OF CITIZENS**

Each citizen will be presented with an award recognizing their distinguished accomplishment and a letter of appreciation from the Chief of Police. The citizen(s) will be presented the award at an annual awards ceremony.

## **Fitness for Duty**

### **1032.1 PURPOSE AND SCOPE**

All officers are required to be free from any physical, emotional, or mental condition which might adversely affect the exercise of peace officer powers. The purpose of this policy is to ensure that all officers of this department remain fit for duty and able to perform their job functions (Government Code § 1031).

### **1032.2 EMPLOYEE RESPONSIBILITIES**

- (a) It shall be the responsibility of each member of this department to maintain good physical condition sufficient to safely and properly perform essential duties of their position.
- (b) Each member of this department shall perform his/her respective duties without physical, emotional, and/or mental constraints.
- (c) During working hours, all employees are required to be alert, attentive, and capable of performing his/her assigned responsibilities.
- (d) Any employee who feels unable to perform his/her duties shall promptly notify a supervisor. In the event that an employee believes that another employee is unable to perform his/her duties, such observations and/or belief shall be promptly reported to a supervisor.

### **1032.3 SUPERVISOR RESPONSIBILITIES**

- (a) A supervisor observing an employee, or receiving a report of an employee who is perceived to be, unable to safely perform his/her duties due to a physical or mental condition shall take prompt and appropriate action in an effort to resolve the situation.
- (b) Whenever feasible, the supervisor should attempt to ascertain the reason or source of the problem and in all cases a preliminary evaluation should be made in an effort to determine the level of inability of the employee to perform his/her duties.
- (c) In the event the employee appears to be in need of immediate medical or psychiatric treatment, all reasonable efforts should be made to provide such care.
- (d) In conjunction with the Watch Commander or employee's available Division Commander, 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 temporary relief from duty will be required to use sick leave, leave without pay or "other paid leave" in order to obtain medical treatment or absence from duty.

### **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.

# Fullerton Police Department

## Policy Manual

### *Fitness for Duty*

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Upon the recommendation of the Watch Commander or unit supervisor and concurrence of a Division Commander, 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)).
- (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 and a copy will also be provided to the employee.
- (d) All reports and evaluations submitted by the treating physician or therapist shall be part of the employee's confidential personnel file and a copy will also be provided to the employee.
- (e) Any employee ordered to receive a fitness for duty examination shall comply with the examination administered by the physician or therapist. Any failure to comply with a lawful 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**

Limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, training, general overtime and any other work assignments and specific guidelines are described in the employee's group MOA.

- Fullerton Police Officer Association Memorandum of Understandings (MOA) set forth in article 38: Work Schedules
- Fullerton Municipal Employees Federation Memorandum of Understandings (MOA) set forth in article 41: Work Schedules

### **1032.8 APPEALS**

An employee who is separated from paid employment or receives a reduction in salary resulting from a fitness for duty exam shall be entitled to an administrative appeal as outlined in Policy Manual § 340 (Disciplinary 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**

Most employees receive a 30 or 60 minute meal period depending on work assignment. The time spent for the meal period is indicated in the individual's Memorandum of Agreement (MOA).

#### **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.

## Lactation Break Policy

### **1035.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide reasonable accommodations to employees desiring to express breast milk for the employee's infant child (29 USC § 207 and Labor Code §§ 1030-1032).

### **1035.2 POLICY**

It is the policy of this department to provide, in compliance with the Fair Labor Standards Act, reasonable break time and appropriate facilities to accommodate any employee desiring to express breast milk for her nursing infant child (29 USC § 207 and Labor Code § 1030).

### **1035.3 LACTATION BREAK TIME**

A rest period should be permitted each time the employee has the need to express breast milk (29 USC § 207). In general, lactation breaks that cumulatively total 30 minutes or less during any four-hour work period or major portion of a four-hour work period would be considered reasonable. However, individual circumstances may require more or less time. Such breaks, if feasible, should be taken at the same time as the employee's regularly scheduled rest or meal periods.

While a reasonable effort will be made to provide additional time beyond authorized breaks, any such time exceeding regularly scheduled and paid break time will be unpaid (Labor Code § 1030).

Employees desiring to take a lactation break shall notify the Communications Center or a supervisor prior to taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt department operations (Labor Code § 1032).

Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

### **1035.4 PRIVATE LOCATION**

The Department will make reasonable efforts to accommodate employees with the use of an appropriate room or other location to express milk in private. Such room or place should be in close proximity to the employee's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view and free from intrusion from co-workers and the public (29 USC § 207 and Labor Code § 1031).

Employees occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other employees should avoid interrupting an employee during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area.



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### *Lactation Break Policy*

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#### **1035.5 STORAGE OF EXPRESSED MILK**

Any employee storing expressed milk in any authorized refrigerated area within the Department shall clearly label it as such and shall remove it when the employee ends her shift.

## Time Card Procedures

### 1036.1 PURPOSE AND SCOPE

A standardized scheduling program is being used to provide unification of all department schedules. Time cards are submitted to Police Department Administration on a bi-weekly basis for the payment of wages.

#### 1036.1.1 RESPONSIBILITY FOR COMPLETION OF TIME CARDS AND WORK SCHEDULES

It shall be the Bureau or Unit Supervisor's responsibility to assure that an accurate and current schedule is maintained in the In-Time Scheduling System. Supervisors are also responsible for the accurate and timely submission of time cards for the employees they supervise.

#### 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 Services no later than 8:00 a.m. on the Wednesday morning before the end of the pay period, unless specified otherwise.

### 1036.2 OVERTIME PAYMENT REQUESTS

It is the policy of the City to compensate employees who work authorized overtime either by payment of wages as agreed and in effect through the Memorandum of Agreement (M.O.A.), or by the allowance of accrual of compensatory time off. In order to qualify for either, the employee must complete and submit FPD Form 316.1, Request for Overtime Payment, immediately after overtime is worked. Because of the nature of police work, and the specific needs of the Department, a degree of flexibility concerning overtime policies must be maintained.

#### 1036.2.1 REQUEST FOR OVERTIME PAYMENT FORMS

Employees shall submit all overtime payment request forms (FPD Form 316.1) to be verified by their immediate supervisor and then forwarded to Administration as soon as practical.

- (a) Employees shall complete the requests immediately after working the overtime and turn them in to their immediate supervisor or the on-duty 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.
- (b) The supervisor who verifies the overtime earned shall make appropriate entries in the "Payment Schedule Approval" box on Form 316.1 and forward the form to the employee's supervisor for entry on the employee's time card.
- (c) Employees are to record the actual time worked in an overtime status. In some cases, the Salary Ordinance provides minimum times will be paid, (e.g. 2 hours for Court, 4 hours for Outside Overtime). The supervisor will enter the actual time for payment.
- (d) Division Commanders, after approving payment, will then forward the form to the Chief of Police for review.

# Fullerton Police Department

## Policy Manual

### *Time Card Procedures*

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#### **1036.2.2 ACCOUNTING FOR PORTIONS OF AN HOUR**

Partial hours of overtime worked are to be accounted for in tenths of an hour. One tenth is equivalent to six minutes as indicated by the following chart.

TIME WORKED	INDICATE ON CARD		TIME WORKED	INDICATE ON CARD
1 - 6 minutes	.1 hour		31 - 36 minutes	.6 hour
7 - 12 minutes	.2 hour		37 - 42 minutes	.7 hour
13 - 18 minutes	.3 hour		43 - 48 minutes	.8 hour
19 - 24 minutes	.4 hour		49 - 54 minutes	.9 hour
25 - 30 minutes	.5 hour		55 - 60 minutes	1 hour

#### **1036.2.3 VARIATION IN TIME REPORTED**

Where two or more employees are assigned to the same activity, case, or court trial and the amount of time for which payment is requested varies from that reported by the other officer, the Watch Commander or other approving supervisor may require each employee to include the reason for the variation on the back of FPD Form 316.1.

## 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** - Outside overtime is defined as when a Fullerton police officer performs a duty as a police officer in the City of Fullerton for an organization or company. The City of Fullerton is then reimbursed on an hourly rate basis for the services of the officer.

### 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.

FPD form 322 is to be completed by the employee and submitted to the employee's immediate supervisor. It will then be forwarded, through channels, to the Chief of Police. If approved, the employee will receive a copy of the approved permit. The permit is valid through the end of the calendar year in which the permit is approved. Employees shall submit a new FPD Form 322 by January 15th to renew the permit each year. 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).

#### 1040.2.2 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT PERMITS

Any outside employment permit may be revoked or suspended under the following circumstances:

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- (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, if related to the misconduct.
- (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, **weapons**, 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 OF PEACE OFFICER EMPLOYMENT**

Any private organization, entity or individual seeking special services for security or traffic control from members of this department must submit a written request to the Chief of Police in advance of the desired service. Such outside extra duty overtime assignments will be assigned, monitored and paid through the Department.

- (a) The applicant will be required to enter into an indemnification agreement prior to approval.
- (b) The applicant will further be required to provide for the compensation and full benefits of all employees requested for such outside security services.
- (c) Should such a request be approved, any employee working outside overtime shall be subject to the following conditions:
  - 1. The officer(s) shall wear the departmental uniform/identification.

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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**

Those officers making arrests while working on an outside employment basis shall write the original reports no later than the end of the outside employment tour of duty, or as directed by the on-duty Watch Commander. Time spent on any reports completed for the outside employer shall be considered incident to the outside employment. When such arrest is made, the Arrestee shall be turned over to an on-duty officer for transportation to the Police Department and for completion of the booking process. The on-duty officer shall make a supplemental report concerning his/her activities. This section shall apply to officers working outside overtime as well as to those in an outside employment status.

#### **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 pursuant to Government Code § 3308. Prior to providing written approval for an outside employment position, the Department may request that an officer provide his or 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 or her personal financial records for review/audit. If the employee elects not to provide the requested records, his or her off-duty work permit may be revoked pursuant to Policy Manual § 1040.2.2(c).

##### **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 the chain of command. Any subsequent request for renewal

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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 Fullerton Police Department, a request (in writing) may be made to the Chief of Police to restore the permit.

#### **1040.6.1 OUTSIDE EMPLOYMENT - SECURITY ASSIGNMENTS**

Any employee seeking approval for outside employment involving security-type work shall be subject to the following additional requirements:

- (a) Complete page two of FPD Form 322 "Statement of Acknowledgment," sign and date the form, and submit it with the original request as in Policy Manual §316.2.
- (b) Complete the "Outside Employer Statement" and have it signed by an authorized representative of the potential employer. Submit the signed form with the original request per Policy Manual §316.2.
- (c) Submit copies of all permits and or licenses to comply with current State of California Bureau of Security and Investigative Services requirements to Administration. Include any local or county licensing requirements. All copies shall be submitted within 30 days of obtaining an outside permit.
- (d) Employees are prohibited from using any Department issued equipment or resources, including Department weapons during such employment.

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### *Outside Employment*

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#### **1040.7 OUTSIDE OVERTIME**

Outside overtime is defined as when a Fullerton Police Officer performs a duty as a police officer in the City of Fullerton for an organization or company. The City of Fullerton is then reimbursed on an hourly rate for the services of the officer.

##### **1040.7.1 SIGN UP PROCEDURE**

Any officer that signs an "Outside Overtime Request" form is subject to the following requirements:

- (a) Once an officer has signed the "Outside Overtime Request" form, no officer may cancel their appearance or alter the "Outside Overtime Request" form except under the following circumstances:
  - 1. With approval of a supervisor
  - 2. Arranging for another officer to fulfill the assignment.

Officers who have been approved to cancel their appearance must draw a line through their name and have the supervisor initial next to the line. "White Out's" are not acceptable.

Officers may only sign up for the maximum number of days specified on the "Outside Overtime Request" form during the first four days of publication.

The highest ranking or most senior officer to sign the "Outside Overtime Request" form shall obtain a signature from the authorized agent on the reimbursement form to authorize payment to the police department.

Officers may use vacation or accumulated compensatory time based on staffing needs and Watch Commander approval.

Officers shall submit an overtime card (FPD form 316.1) for the actual time worked which may be less than the time requested on the "Outside Overtime Request" form. Officer's will be paid a minimum of four (4) hours (FMC § 2.34.010) regardless of time worked.



## On Duty Injuries

### 1042.1 PURPOSE AND SCOPE

The purpose of this policy is to provide for the reporting of on-duty injuries, occupational illnesses, or deaths to Risk Management, to ensure proper medical attention is received, and document the circumstances of the incident.

### 1042.2 WORKER'S COMPENSATION FUND REPORTS

#### 1042.2.1 INJURIES REQUIRING MEDICAL CARE

All work related injuries and work related illnesses requiring medical care must be reported to the Risk Management Office and a claim form shall be provided to the injured employee within 24 hours from the time the injury was discovered, excluding weekends and holidays. The following reports shall also be completed:

- (a) Employer's Report of Work Injury, form #5020.
- (b) Employee's Claim for Worker's Compensation, form # DWC Form 1 (provide to employee within 24 hours). Supervisor's Report of Injury.
- (c) Employee's Report of Back Injury (if applicable).

#### 1042.2.2 ACCIDENT DEFINED

**Accident** - is defined as any occurrence that results in any injury or damage or there is a reasonable potential for future manifestation of bodily injury or property damage.

#### 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

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### *On Duty Injuries*

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employees are required to promptly submit all medical releases, whether partial or full releases, to their supervisor.

#### **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 Commander, 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.

Copies of any reports documenting the accident or injury should be forwarded to the Division Commander as soon as they are completed.

#### **1042.2.5 DIVISION COMMANDER RESPONSIBILITY**

The Division Commander 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. The DWC Form 1 must be provided to the employee. A copy of the form should be retained for Department use.

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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### *On Duty Injuries*

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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 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.

## **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 and 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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## Policy Manual

### *Personal Appearance Standards*

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#### **1044.3 TATTOOS**

Employees shall not display any tattoos or brandings while on-duty when wearing any part of the Fullerton Police uniform. All visible tattoos and brandings shall be covered by an approved long-sleeved uniform shirt or by wearing a skin patch of neutral tone. Visible tattoos or brandings on the head, neck, or face area are prohibited.

Sworn employees assigned to specialized units may display visible tattoos while working in an undercover capacity.

Exemption: Employees hired prior to February 1, 2012 shall be exempted for tattoos and brandings that the employee had prior to February 1, 2012 under the following conditions:

- (a) Exempted tattoos and brandings shall not depict material that is discriminatory, offensive, gang related, derogatory based upon race, gender, ethnicity or religion, or that is obscene or sexually oriented.
- (b) Tattoos and brandings that would be visible in a police uniform must be photographed and placed in the employee's personnel file in order to insure that those exemptions are accurately documented. Appointments must be made with a sergeant in PSB to document the tattoos and brandings.
- (c) Additional tattoos or brandings after February 1, 2012 which are visible while wearing the uniform will require the entire area to be covered.

Exemptions may only be granted by the Chief of Police who has the sole discretion and authority to determine which tattoos or brandings meet the criteria above.

#### **1044.4 BODY PIERCING OR ALTERATION**

Body piercing or alteration to any area of the body visible in any authorized uniform or attire that is a deviation from normal anatomical features and which is not medically required is prohibited. Such body alteration includes, but is not limited to:

- (a) Tongue splitting or piercing.
- (b) The complete or transdermal implantation of any material other than hair replacement.
- (c) Abnormal shaping of the ears, eyes, nose or teeth
- (d) Branding or scarification.

## Uniform Regulations

### 1046.1 PURPOSE AND SCOPE

The uniform policy of the Fullerton 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 Fullerton 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) Except as authorized by policy (IE Motor Officers), 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 that is openly identifiable.

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- (j) Visible jewelry, other than those items listed below, shall not be worn with the uniform unless specifically authorized by the Chief of Police or his 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. Officers working specialized assignments may be excused from the possession and display requirements when directed by their Division Commander.

#### **1046.3 UNIFORM SPECIFICATIONS**

Uniforms and equipment worn by employees shall conform to regulations and specifications that are kept on file in the Professional Standards Bureau.

##### **1046.3.1 UNIFORM CLOTHING**

Any uniform issued by the City or purchased by an employee must conform to specifications that are maintained by the Professional Standards Bureau. The following items are approved for employees of this Department:

- (a) Duty jackets shall be a nylon police jacket style issued by the City to new employees; black in color with a black collar and without epaulets.
- (b) Motorcycle jackets shall be leather with a vertical zipper without belt keepers. The regulation badge shall be worn on the jacket. Motorcycle officers may wear solid black or navy blue scarves when wearing jackets as approved by a Traffic Supervisor.
  - 1. Newly assigned motorcycle officers have the option of receiving the leather jacket or an approved armor protective motorcycle duty jacket. All motorcycle officers have the option of purchasing the protective jacket at their own expense.
- (c) Shirts for sworn officers shall be regulation police uniform shirt, navy blue in color, short or long sleeve, wool or polyester. Shirts are cut to be gender specific and shall be fitted. All buttons sewn to the uniform shall be black.
- (d) Shirts for civilian uniformed employees, except jailers, shall be regulation uniform shirts of tropical blend polyester, light blue in color. All buttons sewn to the uniform shall be black.
- (e) Shirts for jailers shall be regulation police uniform shirt, olive green in color, short or long sleeve, wool or polyester. Shirts are cut to be gender specific and shall be fitted. All buttons sewn to the uniform shall be black.
- (f) Polo shirts for sworn personnel (optional) in approved assignments shall be black in color. The cloth badge shall be sewn to the left breast area of the shirt and the name, rank and "P" number embroidered to the right breast area. Polo type and embroidery specs are on file with PSB.
- (g) Polo shirts for civilian personnel (optional) in approved assignments shall be navy blue in color. The cloth badge shall be sewn to the left breast area of the shirt and the title, name, and assignment embroidered to the right breast area. Polo type and embroidery specs are on file with PSB.

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- (h) White or Black "T" Shirts shall be worn under all Class "A" and "B" uniforms for all uniformed employees. T-shirts shall be white or black cotton or cotton blend, crew neck. Sleeves shall not be visible below the uniform shirtsleeve. The black "T" shirts must be well maintained and cannot be worn if faded. The Chief of Police has the authority to grant exemptions to this requirement.
- (i) Turtle neck shirt or "Dickie" (optional) may be worn in conjunction with the long sleeve shirt and shall be black in color.
- (j) Trousers shall be regulation police trousers, wool or polyester, navy blue in color, except for jailers, which shall be olive green. Trousers are cut to be fitted and shall be appropriately worn by each gender.
- (k) Breeches worn by motor officers shall be regulation police heavyweight, navy blue in color, wool with 1/2 inch wide silver stripe on the outside leg seams.
- (l) The uniform soft cap for sworn officers shall be of the approved style, wool police cap, navy blue in color with metal cap piece.
- (m) Baseball style caps (optional) shall be only the type and style approved by the Department.
- (n) Uniform tie shall be regulation "four-in-hand" style, black in color with a breakaway clip, accompanied with the approved tie bar.
- (o) Bow ties for Motorcycle officers shall be black in color.
- (p) Tie bars shall be approved silver satin finish style without emblems.
- (q) Rain-wear issued by the Department shall be appropriate in inclement weather.
- (r) White ascots or bow-ties are authorized for motorcycle officers while wearing the Class "A" uniform upon approval of the traffic supervisor.
- (s) Duty sweaters are approved for uniform clerical positions and dispatchers, they shall be v-neck, navy blue in color, long sleeve, wool or acrylic and the style approved by the Department.
- (t) "Skorts" are approved for non-sworn uniformed female personnel; they shall be navy blue in color and the style approved by the Department.

#### **1046.3.2 UNIFORM FOOTWEAR**

- (a) Shoes shall be center-laced style, smooth finish, and solid black in color. They shall be low cut or ankle length with a plain tip toe. Die work or other ornamentation, western styling, or crepe-soled shoes shall not be permitted.
- (b) Tactical boots (optional) shall be center-laced style, plain toe, and solid black in color, with a smooth leather finish capable of accepting a wax shine or any other tactical boot approved by staff. Die work, ornamentation or western styling shall not be permitted. Boots may have nylon fabric uppers. Double soles or Teflon/metal taps shall not be permitted. Replacement soles and heels shall have gripping features similar to that of the original manufacturer's design. The pant leg shall be worn over the upper portion of the boot at all times. Lace-up zipper attachments, if utilized, shall be black with a black zipper and black laces.
- (c) Boots (Motor Officers) shall be regulation field boot of black calf, plain toe, laced over the instep not more than 6 inches or 8 inches and laced at upper outside not more than 4 inches or fastened with a buckle at the top.
- (d) Pumps may be worn by female employees wearing skirts. They shall be black leather with a plain toe and a maximum heel height of one and one-half inches.



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- (e) Socks that are visible when worn with the uniform (which includes any socks worn with low cut shoes) shall be of suitable material and shall be black in color.

#### **1046.3.3 DUTYGEAR**

- (a) Duty belt shall be the "Sam Browne" style in black basket-weave design with a regulation black finish buckle.
- (b) Uniform belt shall be black leather, basket-weave design, not less than 1 inch wide with either chrome finish buckle or Velcro® fastener.
- (c) All officers shall wear a holster of an approved type and style appropriate for the firearm carried. The Professional Standards Bureau shall maintain and provide to all officers a list of approved holsters. All holsters must conform to the design and color of the Sam Browne belt. Cross- draw holsters are prohibited for duty use.
- (d) Magazine holders shall be black basket weave, two magazine-pouch design with hidden snaps. The holder shall be worn opposite the gun hand in an upright or horizontal position.
- (e) Expendable baton holder shall be black basket-weave design and conform to those issued by the City.
- (f) Key rings shall be black leather basket-weave design with no snap and chrome color clip.
- (g) Handcuff case shall be single or double cuff design in black basket weave with a hidden snap. Two handcuff cases may be worn as an option provided they are of the single cuff design.
- (h) Keeper straps shall be worn with the duty belt. Four straps shall be 1/2-inch wide black leather basket-weave design with hidden snaps. Keeper straps shall be spaced evenly around the duty belt.
- (i) Chemical agent holders shall be black basket weave as approved by the Department.
- (j) Officers may wear optional, radio holders, audio transmitter holders, and flashlight carriers provided they are of black basket-weave design except for radio holders that may be black painted metal.

#### **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 Team, SWAT, Bicycle Patrol, Motor Officers 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 NYLON WEB GEAR**

Sworn officers in Class "C" uniforms or jumpsuits are authorized to wear Bianchi® "AccuMold" black ballistic weave nylon gear conforming to the specifications in Policy Manual §1046.3.4.

#### **1046.3.7 ADDITIONAL ACCESSORIES**

Officers may be required to wear other accessories furnished by the Department, any of which shall be deemed to be in conformance with these specifications. Officers may only wear specialty pins while in that assignment.

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- (a) A standardized police whistle shall be carried on the key ring, in an unexposed pocket or readily available.
- (b) Specialty pins which include SWAT, K-9, F.T.O. and award pins such as the Medal of Valor may be worn on the uniform as described below. Employees working in a specialty assignment may wear the pin from that assignment. Officers who have been trained in SWAT, that are no longer assigned to SWAT, may continue to wear the SWAT pin. No more than one specialty pin may be worn on the uniform at the same time. Specialty and award pins may be worn on the uniform as follows:
- (c) SWAT pins shall be worn directly above the nameplate above the right shirt pocket.
  - 1. K-9 pin shall be worn directly above the left shirt pocket.
  - 2. F.T.O. pins shall be worn by active Field Training Officers and Reserve Training Officers and placed on the right pocket flap centered directly beneath the nameplate.
  - 3. Award pins such as the Medal of Valor shall be worn on the left shirt pocket flap.
  - 4. Other pins as approved by Staff shall be worn as directed. An approved list is on file in the Professional Standards Bureau.
- (d) Shooting medals shall be worn and placed on the right pocket flap of the shirt one inch to the right of the left edge of the pocket flap and centered midway between top and bottom of flap.
- (e) Mourning bands are worn horizontally over the badge and shall be black elastic, approximately 3/4 inch in width.
- (f) Officers are authorized to carry a concealed pocket type knife.

#### **1046.4 UNIFORM ITEMS OF IDENTIFICATION**

The following items shall be considered part of the uniform and shall be worn with the uniform at all times:

- (a) Badge - When in uniform, all officers shall wear the official badge currently issued to them. The badge shall be attached to the badge holder provided on the outermost garment and shall be clearly visible at all times. The approved cloth badge shall be worn on the Class "C" polo shirt.
- (b) I.D. Cards - All officers shall have in their possession at all times the identification card currently issued to them.
- (c) Name Plates - Nameplates shall be worn at all times when officers are in uniform. Nameplates shall be placed immediately above and in line with the upper seam at the left top corner of the right shirt pocket. The officer's name, rank and "P" number shall be embroidered on the Class "C" knit shirt. A cloth nameplate shall be sewn on approved jumpsuits.
- (d) Shoulder Patch - The official Police Department patch, issued by the City, shall be worn on all uniforms. This is to be sewn on both sleeves of the jacket and shirt with the top of the patch to be 1/2-inch below the sleeve-head seam. Motorcycle leather jackets are exempt from the shoulder patch.
- (e) Cap Piece - The official cap piece shall be worn with the cap, but may be covered by a transparent cap cover during inclement weather.
- (f) Helmet Emblem - The official helmet emblem for motorcycle officers shall be permanently affixed to the center front area of the helmet, in the approved manner.

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#### **1046.4.1 MOURNING BADGE**

When a law enforcement officer of this county or an adjacent county is killed in the line of duty, officers of the Fullerton Police Department may wear the black mourning bands horizontally across their badge. Wearing of the band is automatic when a fallen officer works in Orange County, San Bernardino County, Los Angeles County, Riverside County or San Diego County.

- (a) An officer of this department - From the time of death until midnight on the 14th day after the death.
- (b) An officer from this or an adjacent county - From the time of death until midnight on the day of the funeral.
- (c) Funeral attendee - While attending the funeral of an out of region fallen officer.
- (d) National Peace Officers Memorial Day (May 15th) - From 0001 hours until 2359 hours.
- (e) As directed by the Chief of Police.

#### **1046.4.2 CLOTH BADGES AND NAMEPLATES**

Cloth replica badges and personalized cloth nameplates are required for use on the class "B" uniform jacket. The Professional Standards Bureau supplies the cloth badges and nameplates. Specifications are on file with the Professional Standards Bureau.

#### **1046.5 DRESS UNIFORM - CLASS "A"**

- (a) **Sworn Uniformed Officer:** The dress uniform shall consist of the regulation headgear, long sleeve shirt, tie, trousers, socks, shoes, side arms, handcuffs, baton, required keys, ornaments and leather goods, subject to the following exceptions:
  1. The jacket is optional as part of the dress uniform depending on the weather conditions.
  2. Officers assigned to ride motorcycles on an occasion where dress uniforms have been ordered shall substitute breeches for trousers, motorcycle boots for uniform shoes, bow ties or white ascots for straight ties and helmets for regulation soft headgear.
  3. Tactical boots shall not be worn as part of the Class "A" uniform.
- (b) **Civilian Uniformed Employees:** Jailers, CSO's, PCO's, Cadets, Dispatchers, Records Clerks, Forensic Specialists and R.S.V.P.'s dress uniform shall consist of the regulation long sleeve shirt, tie, trousers, socks, shoes and uniform belt subject to the following exceptions:
  1. The jacket is optional as part of the dress uniform depending on the weather conditions and consistent with sworn officers wearing Class "A" uniform at that time.
  2. Female employees may substitute skirts for trousers and shall wear nylon stockings and black pumps with the skirts.
  3. Tactical boots shall not be worn as part of the Class "A" uniform.

#### **1046.5.1 DUTY UNIFORM - CLASS "B"**

When on regular duty, employees shall wear the approved uniform clothing and equipment as weather, climatic condition and assignment may require. Employees may wear either a long or short-sleeve shirt, with no tie, and the appropriate black or white T-shirt.

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The approved baseball style cap may be worn during inclement weather or when approved by a supervisor.

#### **1046.5.2 OPTIONAL UNIFORM - CLASS "C"**

Class "C" Uniforms are optional and are not supplied by this Department.

Class "C" Uniforms shall consist of the approved black polo shirt, black cotton denim jeans or approved utility pants, uniform belt, approved black athletic shoes and black socks. Class "C" uniforms may be worn by officers assigned to, High School Resource, Crime Impact Unit, Crime Scene Investigators, Bicycle Patrol Officers and the Gang Detail while on duty in their respective assignments.

Members of S.W.A.T., traffic officers while training, commercial enforcement officers performing commercial enforcement duties and K-9 officers shall be authorized to wear the Department approved utility uniform. The utility uniform shall be black with Department shoulder patches, a cloth badge and cloth name plate or embroidered sewn to them. "T" shirts shall be worn with the utility uniform. "T" shirts shall be either white or black cotton or cotton blend, crew neck.

Members of the Target, Gang and Crime Impact Units and High School Resource Officers are authorized to wear the Department approved utility uniform pants along with their approved black polo shirt.

#### **(a) Class "C" Embroidery for Sworn Employees**

1. All Sworn Class "C" shirts shall contain a cloth badge and be embroidered with white thread as follows:
  - (a) Over right chest:
    1. "FULLERTON POLICE" (Embroidered)
    2. " RANK LAST NAME" (Embroidered)
    3. "BADGE # " (Embroidered)
  - (b) Over left chest: Police Officer cloth badge " silver/black (Sewn on)
  - (c) Back of shirt: POLICE (Silk Screen)
2. The Non-Sworn Class "C" Uniforms, for approved positions (Dispatch, Records Personnel, Traffic Records Specialist, CSI, Property, and Community Services Records Clerk) shall consist of the approved short or long sleeve navy blue polo, black plain front or pleated "Dockers" cuff-less pant, uniform belt, approved black athletic shoes and black socks. Personnel assigned to Property and CSI have the option of wearing the approved black utility pant or black jeans.

#### **(b) Class "C" Embroidery for Non-Sworn Employees**

1. All Non-Sworn Class "C" shirts shall contain a cloth badge and be embroidered with white thread as follows:
  - (a) Over right chest:
    1. "FULLERTON POLICE "(Embroidered)
    2. "FIRST INITIAL. LAST NAME"(Embroidered)
    3. "POSITION" (Embroidered)
  - (b) Over left chest: Civilian cloth badge (Sewn on)

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- (c) Back of shirt: Screen print for CSI only
- (d) Blue shirts shall have white embroidery and Black shirts shall have silver embroidery.

#### **1046.5.3 INSIGNIA IN RANK**

- **Chief of Police** - Four silver colored stars, worn as follows:
  - Jacket - Four one-inch, five point colored stars on each shoulder strap, first star to be placed with point 1/2 inch from shoulder seam and second star to be spaced 1/2 inch toward neck.
  - Shirt - Four 5/8 inch, five-pointed silver stars on each side of the shirt collar. First star 3/4 inch from collar flap front to star center and second star to be placed 3/4 inch from center-to-center toward back of collar.
- **Captain** - Two silver colored bars, worn as follows:
  - Jacket - Two silver colored bars about one inch in length and 3/8 inch apart, to be placed on each shoulder 3/4 inch from and parallel to the shoulder seam of garment.
  - Shirt - Two silver colored bars about 3/4 inch in length, 5/16 inch in width, spaced horizontally 1/4 inch apart, to be placed on each side of collar 3/4 inch from collar flap front, midway between top and bottom of collar flap.
- **Lieutenant** - One silver colored bar, worn as follows:
  - Jacket - One silver colored bar about one inch in length and 3/8 inch in width, to be placed on each shoulder 3/4 inch from, and parallel, to the shoulder seam of the garment.
  - Shirt - One silver colored bar about 3/4 inch in length and about 1/4 inch in width, to be placed on back side of the collar, 3/4 inch from and parallel to collar flap front, midway between top and bottom of collar flap.
- **Sergeant:**
  - Three-chevron with rocker Sergeant insignia of the approved type, worn on the sleeves centered 1/2 inch below the shoulder patch.
- **Corporal:**
  - Two-chevron Corporal insignia, of the approved type, worn on the sleeves centered 1/2 inch below the shoulder patch.
- **Cadet and Explorer:**
  - Cadet personnel shall wear the "Cadet" or "Explorer" insignia 1/2 inch below the Fullerton Police Department patch on each sleeve.
- **Records Personnel:**
  - Records Bureau personnel shall wear the "Records" insignia 1/2 inch below the Fullerton Police Department patch on each sleeve.

#### **1046.5.4 SERVICE STRIPES**

For each five years of law enforcement service completed there will be one silver silk, service stripe placed on the left sleeve 3/4 inch above the cuff on the left sleeve of the shirt. When additional stripes are used, they will be consecutive.

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#### **1046.5.5 WHEELS & WINGS EMBLEM**

All personnel currently assigned to traffic enforcement on motorcycles are required to wear the wheel and wings emblem. It shall be centered 1-1/2 inch below the shoulder patch on each sleeve and shall be sewn on the garment with black thread to match the garment.

#### **1046.6 POLITICAL ACTIVITIES, ENDORSEMENTS, AND ADVERTISEMENTS**

Unless specifically authorized by the Chief of Police, Fullerton 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 Fullerton 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 FIELD EQUIPMENT**

Uniformed officers, assigned to the field shall carry the following equipment:

- (a) Baton/ASP - Approved ASP batons will be issued as regular equipment to all uniformed officers. Each officer will be responsible for the ASP baton issued to him/her. A Department approved straight baton or PR-24 may be carried as an option to the ASP.
- (b) Flashlight - A flashlight shall be carried during the hours of darkness and optionally during daytime hours.
- (c) Handcuffs - Uniformed officers will be equipped with Department-approved, standard-made handcuffs. The method of carrying handcuffs for plain-clothes officers and off-duty officers shall be at their discretion.
- (d) Oleoresin Capsicum Spray (O.C.) - Uniformed officers shall be equipped with the Department approved O.C. spray.

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- (e) Handgun - Uniformed officers are required to carry their approved handgun at all times while on duty and in uniform

#### **1046.8 UNAUTHORIZED UNIFORMS, EQUIPMENT AND ACCESSORIES**

Fullerton 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.

Fullerton Police Department employees may not use or carry any safety item, tool or other piece of equipment unless specifically authorized in the Uniform and Equipment Specifications or by the Chief of Police or designee.

#### **1046.9 UNIFORM COMMITTEE**

The Uniform Committee shall review all proposed changes to the Uniform Regulations and make recommendations to Staff.

The Uniform Committee will be composed of the following individuals:

Services Division	Professional Standards Bureau Manager <i>who shall serve as committee chairman</i>
Uniform Division	One sworn uniform representative & one sworn non-uniformed representative
Civilian Personnel	One representative

## **Non-Uniform Regulations**

### **1047.1 PURPOSE AND SCOPE**

This policy is intended to be a guide for appropriate attire for employees assigned to positions that do not require the wearing of a uniform. Appropriate attire is essential to maintain a professional appearance to the public.

### **1047.2 APPEARANCE STANDARDS**

All employees not required to wear a uniform in their assignment shall conform to the following requirements while on duty:

#### **1047.2.1 FEMALE EMPLOYEES**

Female employees are required to wear appropriate business attire.

#### **1047.2.2 MALE EMPLOYEES**

Male employees are required to wear the appropriate business attire, i.e. coat & tie.

Deviations from the above requirements may be permitted with supervisor approval. Examples would include a special assignment.

#### **1047.2.3 NON-UNIFORMED SWORN PERSONNEL**

Sworn personnel assigned to a non-uniformed assignment are required to carry at a minimum the following equipment while on-duty:

- (a) Departmentally approved firearm
- (b) Badge
- (c) Department Identification Card
- (d) Handcuffs
- (e) Handcuff key
- (f) Ammunition
- (g) O.C. spray

During special assignments, plain-clothes officers may be exempted from carrying any of the above items with approval by their supervisor



## **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.

#### **1048.1.1 CADET AND SENIOR CADET STATUS**

The classification of Police Cadet encompasses both the Cadet and Senior Cadet positions. Specifications for Cadets are on file with the City Personnel Office or Police Department Professional Standards Bureau.

### **1048.2 EDUCATION REQUIREMENTS**

Cadets are required to maintain a minimum of a "C" grade for each course taken. All Cadets shall complete 12 semester units of college course work per semester. The 12-unit maintenance requirement will be waived once a Cadet has attained an AA degree or sufficient units to transfer to a four-year educational institution with standing as a junior. Although not a requirement, the Department strongly encourages all Cadets to continue their education toward a higher degree once they have met the above listed educational requirements. Cadets failing to meet the education requirements could be dismissed from the Cadet Program after review by the Program Coordinator and Program Advisors.

#### **1048.2.1 QUALIFICATION FOR SENIOR CADET**

In addition to the qualifications for Cadet, Senior Cadets require the following:

- (a) One year of competent evaluations serving as a Police Cadet.
- (b) Recommendation from the immediate supervisor and the Program Coordinator.
- (c) Passing score on physical ability exam.
- (d) Entry level police officer written examination.

### **1048.3 PROGRAM COORDINATOR**

The Training Bureau Manager will serve as the Program Coordinator. 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.

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#### **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 civilian 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.

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**

Once Cadets successfully complete a written "ride-along" test they are authorized to participate in the Ride-Along Program. Each ride will be 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.

## Department Badges

### 1052.1 PURPOSE AND SCOPE

The Fullerton Police Department badge and uniform patch as well as the likeness of these items and the name of the Fullerton Police Department are property of the Department and their use shall be restricted as set forth in this policy.

### 1052.2 POLICY

The uniform badge shall be issued to department members as a symbol of authority and the use and display of departmental badges shall be in strict compliance with this policy. Only authorized badges issued by this department shall be displayed, carried or worn by members while on duty or otherwise acting in an official or authorized capacity.

#### 1052.2.1 FLAT BADGE

Sworn officers, with the written approval of the Chief of Police may purchase, at his/her own expense, a flat badge capable of being carried in a wallet. The use of the flat badge is subject to all the same provisions of departmental policy as the uniform badge.

- (a) An officer may sell, exchange, or transfer the flat badge he purchased to another officer within the Fullerton Police Department. This shall be done only after providing written notice through the Services Division Commander, with the understanding that the Department has first right to purchase the badge back from the employee at the original purchase price.
- (b) Should the flat badge become lost, damaged, or otherwise removed from the officer's control, he/she shall make the proper notifications as outlined in the Policy Manual 700.
- (c) An honorably retired officer may keep his/her flat badge upon retirement.
- (d) The purchase, carrying or display of a flat badge is not authorized for non-sworn personnel.

#### 1052.2.2 CIVILIAN PERSONNEL

Badges and departmental identification cards issued to non-sworn personnel shall be clearly marked to reflect the position of the assigned employee (e.g. Parking Control, Dispatcher).

- (a) Non-sworn personnel shall not display any department badge except as a part of his/her uniform and while on duty, or otherwise acting in an official and authorized capacity.
- (b) Non-sworn personnel shall not display any department badge or represent him/herself, on or off duty, in such a manner which would cause a reasonable person to believe that he/she is a sworn peace officer.

#### 1052.2.3 RETIREE UNIFORM BADGE

Upon honorable retirement employees may purchase his/her assigned duty badge for display purposes. It is intended that the duty badge be used only as private memorabilia as other uses of the badge may be unlawful or in violation of this policy.

# Fullerton Police Department

## Policy Manual

### *Department Badges*

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#### **1052.3 UNAUTHORIZED USE**

Except as required for on-duty use by current employees, no badge designed for carry or display in a wallet, badge case or similar holder shall be issued to anyone other than a current or honorably retired peace officer.

Department badges are issued to all sworn employees and civilian uniformed employees for official use only. The department badge, shoulder patch or the likeness thereof, or the department name shall not be used for personal or private reasons including, but not limited to, letters, memoranda, and electronic communications such as electronic mail or web sites and web pages.

The use of the badge, uniform patch and department name for all material (printed matter, products or other items) developed for department use shall be subject to approval by the Chief of Police.

Employees shall not loan his/her department badge or identification card to others and shall not permit the badge or identification card to be reproduced or duplicated.

#### **1052.4 PERMITTED USE BY EMPLOYEE GROUPS**

The likeness of the department badge shall not be used without the expressed authorization of the Chief of Police and shall be subject to the following:

- (a) The employee associations may use the likeness of the department badge for merchandise and official association business provided they are used in a clear representation of the association and not the Fullerton Police Department. The following modifications shall be included:
  - 1. Change the top ribbon text from "Police Officer" to "Fullerton Police"
  - 2. Change the lower ribbon text from "Fullerton Police" to "Officers Association".
  - 3. The badge number portion displays the acronym of the employee association (FPOA).

## Use of City Seal

### **1053.1 USE IS LIMITED TO OFFICIAL BUSINESS**

Official Business defined

- City events planned, managed, and staffed by City and/or contract employees
- Public events that receive all or portion of funding from either the City or the Fullerton Redevelopment Agency
- Events sanctioned by the City Council
- Other event deemed relevant to the operation of the City, as determined by the City Manager

FMC 2.01.020 makes it unlawful to use of the seal of the City of Fullerton other than for official business.

### **1053.2 PROCESS OF APPROVAL**

Summary from City Administrative Policy #34

- Written requests and supporting documents must be routed through the City Clerk
- City Clerk will record all requests
- Requests will be on a "case-by-case" basis.
- Approval can be revoked at any time

## **Fitness Center Use**

### **1055.1 PURPOSE AND SCOPE**

To establish uniform policies and procedures regarding access and voluntary use of the Fitness Center.

### **1055.2 BACKGROUND**

The Fitness Center is located on the lower level of the Police Bornhoft building as a convenience to employees. The center is equipped with a combination of weight training and aerobic exercise equipment designed to accommodate a variety of fitness needs. All the equipment is owned and maintained by FPOA and FPAL.

### **1055.3 POLICY**

This policy is intended to address the voluntary use of the Fitness Center. Nothing in this policy is to encourage use of the equipment by employees while off-duty. On-duty employees are not permitted to use the Fitness Center unless they are engaged in a specific supervised training event as authorized by the Chief of Police or Division Commander and use of the Association(s) equipment must be sanctioned by the President of FPOA or FPAL. Use of the Fitness Center is limited to members in good standing with the Fullerton Police Officer Association (FPOA) or the Fullerton Police Athletic League (FPAL), as determined by FPOA and FPAL.

### **1055.4 LIABILITY DISCLAIMER**

The City of Fullerton and Fullerton Police Department are not responsible for any injury or illness occurring during or arising from the use of the Fitness Center. The use of the center is voluntary. On duty use is strictly prohibited except as addressed in Section 1055.3. The City of Fullerton and the Fullerton Police Department will not consider any injury or illness arising from the use of the Fitness Center as arising out of or in the course of employment; therefore, such injuries and illness will not entitle users to benefits under Labor Code Section 3600 et seq.

Each person seeking to use the Fitness Center has the personal responsibility to seek the advice of a physician prior to engaging in any exercise program. Each person must be aware of his/her physical limitations, and only use the equipment if he/she has sufficient knowledge of proper usage and safety procedures. Persons with questions regarding the use of the equipment are directed to contact the manufacturer or seek out a professional fitness consultant.

- (a) No one may use the Fitness Center without first completing a liability waiver form and returning a signed original to the Training Assistant.
- (b) Each signed liability waiver shall be maintained in each individual employee's personal training file during the duration of that employee's employment.
- (c) All Police Department employees shall follow the policies listed in Fullerton Police Department Policy Section 1055 (Fitness Center). Failure to adhere to the rules and regulations may result in the revocation of the liability waiver. Continued use of the Fitness Center without a valid waiver and after reasonable notification may lead to disciplinary action under this section.

# Fullerton Police Department

## Policy Manual

### *Fitness Center Use*

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- (d) Non-Police Department persons who may or may not have a prolonged assignment to the Police Department (i.e. Federal, State, County, or City Law Enforcement professional) may request access to the Fitness Center, however shall be explicitly and collectively authorized by FPAL, FPOA and the Chief of Police. They must also be a member of FPAL or FPOA and must have a signed waiver on file with our Department.
- (e) Original signed waivers will be maintained by the Training Assistant who will generate a master list of persons who have a waiver on file. A duplicate list will be posted in the Fitness Center and updated yearly or more frequently if necessary.

#### **1055.5 FITNESS CENTER ACCESS**

The Fitness Center is only available for use by Police Department employees who are current members of FPOA or FPAL or others as authorized above. The center is open 24 hours a day, seven days a week. Users shall be required to possess a police issued identification or business card while using the Fitness Center.

#### **1055.6 FITNESS CENTER RULES AND STANDARDS OF CONDUCT**

- (a) Appropriate non-revealing exercise attire must be worn at all times as the Fitness Center is located within the Police Department where normal business is being conducted.
- (b) Damaged equipment or complaints about the equipment should be immediately reported to a FPAL board member preferably via email. If the equipment is defective, leave a note on the equipment to warn other users about the damage. Damage to the facility (structure, plumbing, electrical etc.), should be reported immediately to the Police Department Administrative Analyst.
- (c) Due to the close proximity of business offices; TV's may be played only at a low volume so as not to disrupt or interfere with business operations. Programs viewed must not offend any other members using the Fitness Center.
- (d) Radios, CDs, and other individually used sound equipment may be used in the Fitness Center only if earphones are utilized.
- (e) All property in the Fitness Center is owned and maintained by FPOA and FPAL and shall not be removed or altered without proper authorization. Adding or removing any equipment or fixtures is prohibited without authorization from the President of FPOA or FPAL. With regard to the building structure, no alterations, construction or modification shall be made without specific approval from the Police Chief or his designate.
- (f) Additional rules and regulation may be imposed by FPOA or FPAL and shall be distributed to members and/or posted in the Fitness Center.

## **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.

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 Fullerton 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 Fullerton 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 or privacy of any employee, an employee's family or associates.

### **1058.4 PROHIBITED SPEECH, EXPRESSION AND CONDUCT**

To meet the Department's safety, performance and public-trust needs, the following is prohibited subject to 1058.1 above:

- (a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation or professionalism of the Fullerton Police Department or its employees.



# Fullerton Police Department

## Policy Manual

### *Employee Speech, Expression and Social Networking*

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- (b) 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.
- (c) Speech or expression that could reasonably be foreseen as creating 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 creating 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 Fullerton Police Department.
- (f) Use or disclosure, through whatever means, of any photograph, video or other recording obtained or accessible only 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 his/her designee (Penal Code § 146g).
- (g) Posting, transmitting or disseminating any likenesses or images of department logos, emblems, uniforms, badges, patches, marked vehicles, equipment or other material that specifically identifies the Fullerton Police Department on any personal or social networking or other website or web page, without the express written permission of the Chief of Police.
- (h) Failure to take reasonable and prompt action to remove any content that is in violation of this policy and/or posted by others from any web page or website maintained by the employee (e.g., social or personal website).

#### **1058.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS**

Unless specifically authorized by the Chief of Police, employees may not represent the Fullerton Police Department or identify themselves in any way as being affiliated with the Fullerton Police Department in order 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 nonprofit publication or any motion picture, film, video, public broadcast or on any website.
- (e) Promote their own personal interest.

Employees retain their right to vote as they choose, to support candidates of their choice and to express their opinions 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).

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# Fullerton Police Department

## Policy Manual

### *Employee Speech, Expression and Social Networking*

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#### **1058.5 PRIVACY EXPECTATION**

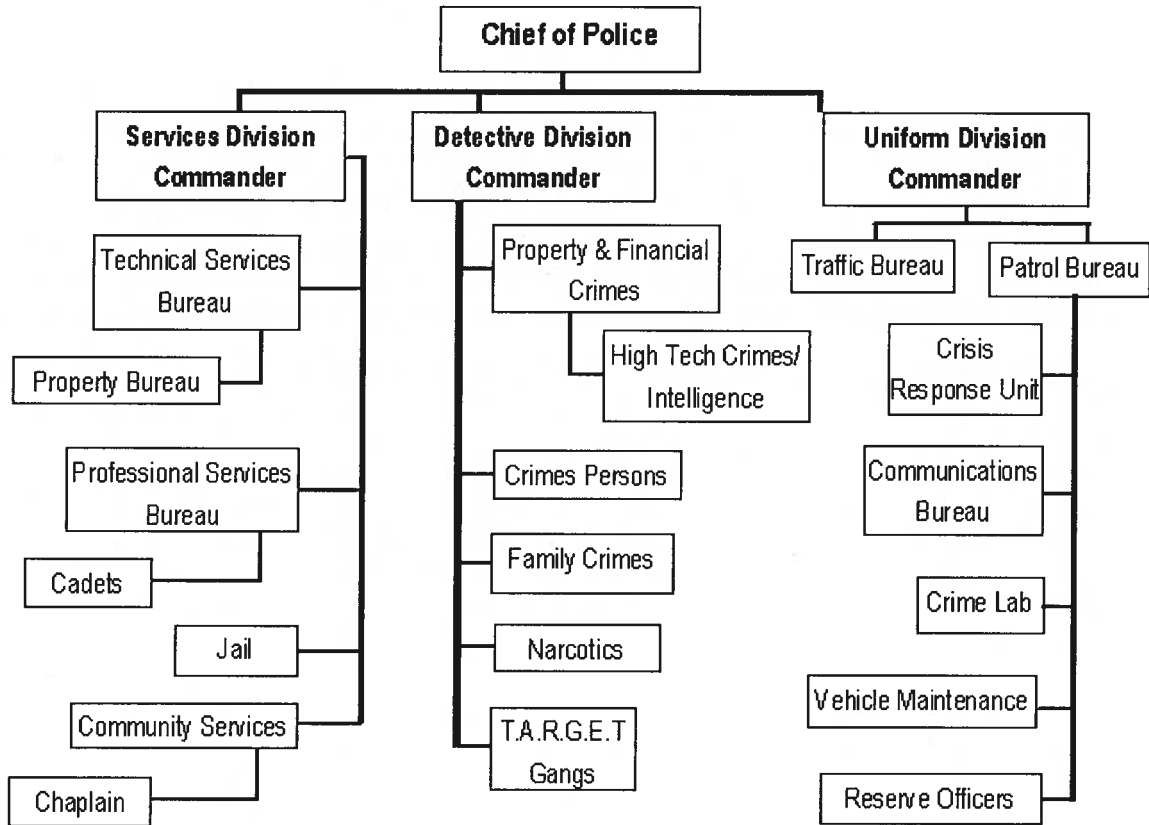
Employees may forfeit any expectation of privacy with regard to anything published or maintained through file-sharing software or any Internet site open to public view (e.g., Facebook, MySpace).

The Department also reserves the right to access, audit and disclose for whatever reason all messages, including attachments, and any information transmitted over any technology that is issued or maintained by the Department, including the department e-mail system, computer network or any information placed into storage on any department system or device.

All messages, pictures and attachments transmitted, accessed or received over department networks are considered department records and, therefore, are the property of the Department. The Department reserves the right to access, audit and disclose for whatever reason all messages, including attachments, that have been transmitted, accessed or received through any department system or device, or any such information placed into any department storage area or device. This 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.

Fullerton Police Department  
Policy Manual

## Organizational Chart



# Fullerton Police Department

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